March 10, 2023

HCAW March 2023 Public Policy Report

Prepared by Leslie Emerick, HCAW Public Policy Director

Legislative Landscape

Today is the 61st day of the 105 day legislative session! HCAW has been tracking 67bills this session. We are now down to tracking 33 bills as many died during the bill cut-offs. Some of these bills may be pulled back up as "necessary to implement the budget" and all of the dead bills live for one more year as we have a two-year legislative session.

We've passed three important bill cutoff dates…February 17 for policy committees, February 24 fiscal committee cutoff and March 8 which is the last day to pass bills in their House of Origin (which means a House bill in the House or Representatives or a Senate bill in the Senate). Legislators were very busy voting on bills on the floor or their respective houses last week.

After a bill passed the House of Origin it must go to the Opposite House and go through the same policy and fiscal review all over again. At the end any amendments must be negotiated for the bill to pass and be signed by the Governor. Public hearing start back up on March 9-10 of this week with lots of public hearings scheduled for next week!

Important dates to keep in mind:

- Wednesday, March 29: Policy committee cutoff – opposite house
- Tuesday, April 4: Fiscal committee cutoff – opposite house
- Wednesday, April 12: Opposite house cutoff
- Thursday, April 23: Last day of session

The state revenue forecast comes out March 20th this year. From then on, it's a race to the finish to get agreements on a state operating budget. The Governor submitted his version in December as required by law. The House and Senate wait until the revenue forecast comes out to finalize their budget proposals. From there it's a matter of negotiations and public hearings on the budget until the end of the legislative session.

Hot Topics for 2023 Legislative Session!

Pediatric Palliative Care Budget Proviso: The proviso form has been submitted to both the House and Senate fiscal committees. Palliative care reduces hospital admissions and supports families with children who may require significant care at the end-of life prior to hospice. This program at the Health Care Authority is under the Hospice Benefit which automatically meets the federal Medicare increases by law. This would bring the Pediatric Palliative Care reimbursement to a rate comparable

to the hospice rate as the services are very similar in terms of patient visit time with palliative care providers. The current average Pediatric Palliative Care rate is $85.72 per visit, which can take hours and drive time. The current average hospice rate is $221.41 for a home visit.

Here is the budget proviso language and the anticipated cost of raising this rate up to hospice rates:

(xx) Beginning January 1, 2024, sufficient amounts are appropriated in this section for the authority to increase pediatric palliative care rates to the equivalent Medicare rates paid for hospice care in effect October 1, 2022.

Total Fiscal Impact				
	FY 2024	FY 2025	FY 2026	FY 2027
State	$ 55,906	$ 111,137	$ 111,137	$ 111,137
Federal	$ 55,367	$ 111,287	$ 111,287	$ 111,287
Total	$ 111,273	$ 222,425	$ 222,425	$ 222,425

The cost estimate model used CY 2021 utilization data, which represented 104 distinct clients.

High Importance Bills impacting In-Home Services I would recommend clicking on the bill you are interested in and reading the latest bill report for the most up to date information on that bill and current amendments. (Please see all bills and upcoming hearing schedule attached to this email.)

ESSB 5179 **An act relating to increasing access to the provisions of the Washington death with dignity act.** Amended to include: Requires hospitals and agencies and facilities providing hospice services to submit their policies regarding access to end-of-life care and the act to the Department of Health.

SHB 1435 **Developing a home care safety net assessment.** Requires consumer-directed employers and in-home services agencies to submit specified financial information to the Department of Health to inform the development of a home care safety net assessment to secure federal matching funds under the state's Medicaid plan. Establishes the Home Care Safety Net Assessment Work Group to develop the home care safety net assessment proposal.

SB 5499 **Concerning the multistate nurse licensure compact.** Requires hospitals, establishments, ambulatory surgical facilities, nursing homes, assisted living facilities, hospice care centers, adult family homes, and nursing pools, subject to enforcement by the Department of Health, to report to the board of nursing within 30 days of employment all nurses holding a multistate license issued by a state other than Washington, and provide an attestation that those employees have completed the demographic data surveys required by the board of nursing and suicide assessment, treatment, and management training as a condition of employment. Removes the requirement that the employers submit a list of all employed nurses holding a multistate license issued by a state other than Washington annually.

SSB 5271 **Protecting patients in facilities regulated by the department of health by establishing uniform enforcement tools.** In-home services agency is defined as a person licensed to administer or provide home health, home care, hospice services, or hospice care center services directly or through a contract arrangement to individuals in a place of temporary or permanent residence. A license approved by DOH is required to advertise, operate, manage, conduct, open, or maintain an in-home services agency.

SHB 1568 **Long-term care professionals**

- Exempts certain home care aides and nursing assistants whose credentials have expired from late fees or renewal fees.
- Extends the period of time allowed for long-term care workers to become home care aides or nursing assistants.
- Changes licensing requirements for home care aides and nursing assistants.

E2SHB 1694 **Home care workforce shortage**

- Expands timelines and testing opportunities for long-term care workers seeking certification as a home care aide.
- Expands the list of family members who are exempt from having to become home care aides and reduces the training requirements for these caregivers.
- Exempts certain home care aides and nursing assistants whose licensing credentials have expired from paying late fees or renewal fees.
- Directs the Department of Social and Health Services (DSHS) to study the feasibility and cost of paying the parents of medically complex children under 18 years old and the spouses or registered domestic partners of a person with complex medical needs.
- Directs the DSHS to report annually on long-term care workforce data trends

E2SSB 5278 **Home care aide certification**

- Allows DOH more discretion for the preparation, grading, and administration of the home care aide certification examination.
- Requires the DOH and DSHS to address delays between training and testing, the lack of test sites, and performance and contract management processes, by completing specific requirements and submitting a preliminary report to the Governor and Legislature no later than June 30, 2024.

SB 5582 **An act relating to reducing barriers and expanding educational opportunities to increase the supply of nurses in Washington.**

- Directs the state board for community and technical colleges to develop a plan to increase credential opportunities in nursing.
- Requires development of an online Licensed Practice Nurse program at two community or technical colleges.

- Modifies program approval and training requirements under the Nursing Care Quality Assurance Commission.
- Creates the High School Student Certified Nursing Assistant Pilot Program.

Department of Health (DOH)

Home Health and Hospice Certificate of Need (CON): DOH has completed their Home health and the Hospice Certificate of Need Listening Sessions and will be gathering information for upcoming rulemaking. A number of facilities had Listening Sessions with the department and they will be prioritizing which type of facility will go first in rulemaking. We expect to hear from them sometime in March or April and the rulemaking will go on over the 2023 summer interim through the fall. They plan to take a break in November-December. Depending on the workload, they will begin again in 2024. It's a short 60-day legislative session so they may continue to work through the session. Stay tuned!

Nursing Care Quality Assurance Commission (NCQAC)

Public Rules Workshops: Nursing Assistants - Next Steps: The Nursing Commission filed a CR-101 on February 8, 2021, under WSR: 21-05-021 for Chapter 246-841 and Chapter 246-842, Nursing Assistants. We are revising nursing assistant standards to: Remove duplication, update competencies, revise program requirements.

Workshops completed: We held 7 public workshops to discuss the proposed changes. These workshops were held October 18, 2022, through February 10, 2023**.** We revised the draft of Chapter 246-841A based on public input.

We are proposing: Repeal of Chapter 246-842 (it duplicates rules), Replace Chapter 246-841 with revised Chapter 246-841A

Next steps: We will file the proposed new Chapter 246-841A with the Code Reviser's Office. We will set a date and hold a final public hearing to get public feedback. We will review and decide whether to adopt proposed Chapter 246-841A. If we decide to adopt Chapter 246-841A, we will file our decision with the Code Reviser's Office. Chapter 246-841A will become effective 31 days after filing our decision.

Supporting documents:

- Revised Draft of Chapter 246-841A (PDF)
- Workshop Recap and Responses (PDF)

For questions or information, please contact: Jessilyn Dagum, Policy Analyst, NCQAC, NCQAC.Rules@doh.wa.gov

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Health Care Authority (HCA)

Palliative Care Benefit Update: Senator Cleveland has asked that we wait on the $300,000 funding request for the Health Care Authority (HCA) to do an actuarial analysis this session. We wanted to make sure that HCA knows about the pending applications for a state to get a free actuarial analysis through the National Academy for State Health Policy. This institute will engage up to five teams of state leaders for two years to develop and/or strengthen policies and strategies to improve access to palliative care.

NASHP State Policy Institute to Improve Care for People with Serious Illness: Request for Applications - NASHP

Evan Klein, Policy Staff at HCA, followed-up that HCA *does* intend to apply for the NASHP opportunity. We're also assessing whether the modelling supported by NASHP would still need to be supplemented by actuarial work at the state level, to project Washington specific costs.

Oregon Health Sciences University: In response to ESSB 5693 (Section 211, Item 93), the Health Care Authority has partnered with the Center for Evidence-based Policy (CEbP) to conduct an analysis of the palliative care benefit in Medicaid and the Public Employees Benefits Board and School Employees Benefits Board Programs. Thanks to those of you who have participated in prior discussions on this topic since our work began in October 2022. The final analysis from OHSU is due to HCA by March 31st, and when received, HCA intends to distribute to legislators and staff and would be happy to share with stakeholders as well.

Palliative Care Listening Session 2.15

We would like to invite you to a **listening session on Monday, March 13, at 12:00 p.m.** to:

- Review policy recommendations for eligibility criteria, defined benefits, and payment model
- Capture reactions and feedback
- Identify any related issues or ideas for HCA to consider

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