October 7, 2022

# HCAW October 2022 Public Policy Report

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***Legislative Landscape***

Fall is such a lovely time of the year… And now is when my thoughts turn towards the November 8th election with ballots set to start arriving in mailboxes soon! It's going to be a very interesting mid-term election this year that will determine the direction for the country and our state for another two years. There are lots of controversial issues from the economy to recent Supreme Court decisions. Please vote!

Workforce shortages continue to haunt the health care sector after the pandemic and hospitals are struggling to survive the huge influx of patients, some are still COVID related, but many are filling up with delayed patient care during the pandemic. We still struggle with how to get patients who are ready to discharge out of hospitals and into skilled nursing facilities or their home with a lack of caregivers and providers.

**End of COVID-19 Emergency Orders and State of Emergency by October 31:** On Sept. 8, Gov. Jay Inslee announced the upcoming rescission of all remaining COVID-19 emergency proclamations and state of emergency by **Oct. 31.** Nearly three-quarters of the governor's 85 COVID-19 emergency orders have already been lifted, and an additional 13 health care related orders will end Oct. 27. The remaining 10 orders are to be lifted on Oct. 31, including the underlying state of emergency. See the announcement here. Vaccination requirements for health care and education workers will end, but employers will continue to be able to require them if they choose. Inslee has already announced that COVID-19 vaccination will remain a condition of employment for most Washington state agencies. Masking for health care providers will still be required as ordered by Dr Shah, Secretary of Health at DOH.

**2023 Legislative Session:** I am gearing up for the next Legislative Session and have started setting up meetings with key legislators on the Health Care and Fiscal Committees to review our legislative agenda…which is still a work in progress. Our legislative agenda evolves as we find out new issues in agency decision packages and hear of legislation that is being proposed as well as early in session as new bills are introduced that we either support or have concerns around.

**WA State Revenue and Forecast Council Report (ERFC):** Revenue projections for Washington state's current two-year budget period increased by about $43 million more than projected at the state's last quarterly update, but a series of factors, including slowing home sales due to high interest rates, led officials to lower the forecast for the next budget cycle. Updated numbers released Wednesday by the ERFC show that projected revenue collections for the 2021-2023 budget slightly exceed what had been forecast in June. But the council lowered the forecast for the next two-year budget cycle that ends in mid-2025 by $495 million.

Sen. Christine Rolfes, a Democrat on the council who is the chief budget writer in the Senate, said that lawmakers will approach their work on the next two-year budget next year with caution, and would focus on ensuring it is sustainable. I listened to Senator Rolfes Chair the Senate Ways and Means Committee hearing on Tuesday and they were cautiously optimistic…but saw some dark clouds on the horizon with high inflation and interest rates. Washington state is still gaining in jobs. The economy in Washington state has a big impact on our ability to gain rates increase for home care, home health, private duty nursing and hospice providers.

***Health Care Authority (HCA)***

**Incentives for Timely Discharges:** Incentives for timely discharges HCA seeks $15,580,000 total ($7,816,000 GF-S) to continue incentives for skilled nursing facilities and home health agencies to accept patients in need of discharge from acute care hospitals, while the agency continues to work with external stakeholders on permanent structural rate changes to ensure timely discharges of Apple Health clients.

HCAW was involved in using the initial pandemic response dollars for incentivizing home health agencies to take patients from acute care hospitals. We are very pleased to see that this may continue in the future through a potential Decision Package with HCA. We requested to be part of the external stakeholder group working on permanent structural rate changes to ensure timely discharges of Apple Health clients.

**HCA's 2023 Request Legislation and Decision Package priorities can now be found online.** According to HCA, this suite of policies build on significant investments that have been made in the state's health care delivery system over the past decade and aim to keep the state well positioned to drive better health outcomes, control costs, and move towards a more integrated delivery system. This summary reflects the agency's highest priorities but is not a comprehensive list of all items the agency will be requesting for inclusion in the Governor's budget. All of HCA's DPs can be found on the OFM ABR webpage here: https://abr.ofm.wa.gov/

**Palliative Care Benefit for Medicaid, PEBB, SEBB:** (Update from Evan Klein, Special Assistant, Legislative & Policy Affairs for HCA) "With existing funding, we are in the process of finalizing a contract and developing a statement of work to analyze Medicaid and PEBB/SEBB's existing palliative care reimbursement approach in comparison to best practices identified via a policy review of different palliative care and reimbursement models. Part of that work will include internal and external stakeholder engagement. This contract will not however include actuarial analysis or recommendations for changes in reimbursement rates.

Additional funding in the Governor's budget and inclusion in the legislative biennial budget, would indeed go a long way towards taking learnings from our current work and developing an actuarially

sound reimbursement model. We'd simply note that the agency would not have those new funds until July 2023 and would be unable to begin that work until next fiscal year. Once the statement of work and contract for the work are finalized, we'll be able to share more detail on next steps (hopefully soon), but hope this information is helpful at this time."

We responded by thanking Evan for this message and said we would be happy to participate in the stakeholder work around the implementation of this benefit….

**Pediatric Palliative Care Rates:** I will be working to partner with WSHPCO on a rate increase for pediatric patients for next session. The rate to our knowledge has never been raised and we would like it to reflect home health rates more closely. Due to the lack of reimbursement, the number of agencies who actually bill for palliative care is quite low. I am working with Senator Cleveland on this issue and have permission to work with fiscal committee staff.

***Department of Health (DOH)***

**Occupational Therapists Compact:** DOH is considering establishing a new section of rule to implement Senate Bill 5518, which creates a new interstate compact for occupational therapy and gives member states the discretion to charge a fee for granting compact privileges. The department is considering adopting rules to specify the fees, as well as to ensure clarity and consistency of fees that are standard across all professions. For more information go to: OT Compact rulemaking
If you have questions, please feel free to email staff.

**SEIU Study to Increase Taxes on Home Care to Gain higher Federal Reimbursements:**
**Background & Purpose:** SSB 5693 of 2022 requires DOH to conduct a financial survey of home care and home health agencies for future tax assessment purposes. Survey information will be de-identified and ultimately shared with DSHS and SEIU 775. DSHS and SEIU 775 will utilize the survey data to approach state and federal agencies to request additional fiscal supports for the in-home industry. SSB 5693 does not require home care and home health agencies to complete this survey. Participation is voluntary but highly encouraged by DOH.

Rational: Home care and home health agencies that contract with DSHS or DDA to serve Medicaid clients may see future rate adjustments based on the survey information we receive to better ensure rates meet the care needs for Washington's seniors and people with disabilities. DOH is requesting your assistance in completing the below linked financial survey:
https://fortress.wa.gov/doh/opinio/s?s=HomeHealthFinancial2022. Please click on the link and complete/submit the survey by October 28, 2022.

**DOH 2023 Preliminary Legislative and Budget Decision Packages**: Here are areas of interest for In-Home Services Providers:

**Uniform Facilities Framework** ***$1.6 million GFS***
DOH has established a standard framework for facilities enforcement and is now expanding it to in-home services and other health care facilities.

**Development of Statewide Medical Reserve Corps** ***$0.9 million GFS***
DOH is requesting the creation of a State Medical Reserve Corps that can organize, train, equip, and mobilize volunteers in support of public health and healthcare needs.

**Home Care Aids and Agency Affiliated Counselors** ***$8.2 million GFS***
DOH is carrying negative fund balances in the home care aide ($6.2 million of deficit) and agency affiliated counselor regulatory programs. Achieving cost recovery through fees alone risks driving workers out of professions already experiencing worker shortages, worsening access to care. DOH is requesting funding to offset the deficit in each program while seeking fee increases to cover operating expenses and required reserves to ensure the programs are self-sustaining.

**Death with Dignity Act (DWDA)** ***$0.4 million GFS***
The DWDA Program's funding is insufficient to deliver data and reporting that is both usable and transparent while failing to cover the cost of administrative tasks required by the DWDA.

**Establish a Statewide Medical Logistics Center** ***$14.5 million GFS***
During the COVID-19 pandemic, the health care system experienced dire supply chain shortages for personal protective equipment (PPE). DOH is requesting ongoing funding to operate and maintain a leased warehouse that now holds 7.5 million high-quality masks and a 60-day supply of inventory that support the health care response to disasters and emergencies.

**DOH and DSHS Home Care Aides Stakeholder Engagement Session:** This meeting was held on September 28th and had over 100 people in attendance. Essentially, they are trying to get home care aides certified by the required dates in law. The pandemic delayed certification and the agencies are still struggling to get testing done in a timely manner with the states Prometric testing company.

Sept_28_2022_Presentation_in_PDF.pdf

- Permanent Date of Hire rule change
- Emergency rules/end of Governor's waivers
- Application, Training & Certification Exam

**Listening Sessions Scheduled for Home Health and Hospice CON:** DOH is seeking feedback regarding any proposed changes to the Certificate of Need (CN) rules (WAC 246-310). As we begin the rulemaking process, we are hosting several listening sessions to hear from our stakeholders and the public. Email CNRulemaking@doh.wa.gov if you have any questions.

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| ***Hospice*** **(Meeting on 10/3)**<br><br>**Next Listening Sessions are (I will send out updated meeting links):**<br><br>***11/1*** **(5:00pm-6:30pm)**<br>***1/3*** **(4:30pm-6:00pm)** | ***Home Health 10/26/22; 10:30am – 12:00pm***<br><br>Click here to join the meeting<br><br>Meeting ID: 277 943 231 650<br><br>Passcode: 5uQ8EX<br><br>**Or call in:** +1 564-999-2000,,116656981#<br><br>Phone Conference ID: 116 656 981#<br><br>**Next Listening Sessions are (I will send out updated meeting links):**<br><br>11/17 (5:00pm-6:30pm)<br>1/31 (4:30pm-6:00pm) |

**Certificate of Need and COVID Proclamations for Licensed Health Care Facilities:** If your health care facility took advantage of the waivers in Proclamation 20-36 and you plan to maintain these changes beyond October 27, 2022, you must comply with state law applicable to your license type. If you have any questions about what actions you should take now, technical assistance is available at COVIDwaiver@doh.wa.gov.

**Hospice CON Rulemaking:** DOH initiated hospice rulemaking in 2022 with the purpose of opening WAC 246-310-290 and 246-310-295 is to update the need forecasting methodology and standards for hospice services by incorporating stakeholder input gained through workshops and comment opportunities. See CON Program's Rules Activity website. Email CNRulemaking@doh.wa.gov if you have any questions. No word on another meeting yet.

**Here is the latest proposed draft language change:** *(e) Step 5. Combine the two age cohorts. Subtract Calculate the most recent three-year average hospice capacity in each planning area using hospice agency admissions. Subtract the calculated hospice capacity from the projected volumes calculated in Step 4 to determine the number of projected admissions beyond the planning area capacity. (e)(i) For hospice agencies qualified under WAC 246-310- 290(7)(b), and whose recent three-year average hospice capacity is below an ADC of thirty-five, replace any reported admissions with default admissions for each year over which the three-year average is calculated.*

- 06/22/2022 Updated proposed draft changes to WAC 246-310-290(8)(e) (PDF)
- Draft language received for WAC 246-310-290(8)(e), as of June 21, 2022 (PDF)
- Sample methodology reflecting proposed change (PDF)

**DOH CON for Home Health Agencies:** We are in line for one of the next CON updates for home health. As you saw above, we are scheduled for listening sessions for home health in the coming months to let the department know what changes we would like to make. We are still working with Marc Berg of Berg Data on the state of home care in WA State and how we compare to the nation. Many of the recommendations are under consideration in our newly formed QAPI group. Please contact Carissa at carissa@aminc.org for more information on how to join our QAPI group.

**DOH Health Equity Rules:** The virtual rules hearing was September 29, 2022. There were no additional comments, but we do not know what was submitted in writing. This rulemaking is for the "model rules" that will be used as a template for other boards and commissions as well as the "secretary professions" such as home care aides. By January 1, 2024, health care professions that are subject to continuing education requirements must adopt rules requiring licensees to complete health equity continuing education training at least once every four years. The proposed rules require completion of two hours of health equity continuing education every four years for all health professionals credentialed under RCW 18.130.040 with a continuing education requirement.

CR-102CR-102 Proposed Rules Significant Analysis

**Death With Dignity Barriers Survey:** Fred Hutchison Cancer Research Center has reached out to associations regarding participating in a survey of hospice providers around barriers to the state's Death with Dignity Act. ESSB 5693 Budget Bill appropriated $200,000 of the state fund for 2023 to the institution to conduct a study, in consultation with DOH and with approval from the Washington state institutional review board, of the ability of Washington residents to make use of the rights established in chapter 70.245 RCW to achieve full access to the Washington death with dignity act. The study shall review the extent to which there are barriers to achieving full access to the Washington death with dignity act.

**Home Health and Hospice Telemedicine Supervisory Visits:** I attended an online rules CR-102 hearing on September 27, 2022 and testified in support of these rules for HCAW. We were the proponents of this rulemaking and initiated it for our private duty nursing agencies. The rules mainly impact private duty nursing agencies that are allowed to provide these visits virtually. At this time home health and hospice to not have approval by CMS to do so, but maybe in the future!!

The proposed rules would expand the use of telemedicine for home health and hospice supervisory visits, giving these agencies the option to conduct supervisory visits either on-site or via telemedicine. WSR 22-17-139.pdf. Please contact John Hilger at 360-236-2929 or john.hilger@doh.wa.gov if you have any questions.

**Nursing Care Quality Assurance Commission (NCQAC)**

**End of COVID-19 Emergency Orders and State of Emergency by October 31:** On Sept. 8, Gov. Jay Inslee announced the upcoming rescission of all remaining COVID-19 emergency

proclamations and state of emergency by October. 31. Requirements for initial application and renewal of nurse licensure will continue in accordance with pre-pandemic requirements *unless* they are currently covered by the nursing commission's emergency rules or have been updated by permanent rule work. For a full list of rule changes, please see the nursing commission's infographic**.** For more information, please email NCQAC.Rules@doh.wa.gov.

**Nursing Licensing Fees Increase:** Fees will increase starting December 1, 2022: Fees pay for licensing and regulating nursing in WA State (RCW 43.70.250). The fees are increasing to cover a new licensing system, staffing to process applications within the 7-day timeline required by the legislature and staffing to address the long-term care crisis. For questions, please contact: nursing@doh.wa.gov or call 360-236-4703.

**Fees:**

- LPN fees will increase $5
- RN fees will increase $15
- ARNP fees will increase $5
- Nurse tech fees won't change

**More information:**

- CR-103, Permanent Rule, WAC 246-840-990 Fees and Renewal Cycle
- Concise Explanatory Statement

**NCQAC Consistent Standards of Practice Subcommittee Agenda:** The subcommittee meeting on October 7, 2022 had these issues on their agenda:

- Advisory Opinion for Nursing Delegation to Nursing Assistants and Home Care Aids
- Vent/Vent-Trach Models of Care for Pediatric Patients Consortium – Ms. Carlson
- Toolkit for General Delegation: Hospice Comfort Care Kits

**Nursing Assistant mass testing continues through Fall 2022:** Mass testing is still going on for all nursing assistants who need the state skills exam. You can register for one of the skills exams listed below on the Credentia website. These dates are visible as Regional Test Sites on the Credentia website - you don't need to use codes to find them. If space is available, then the dates will appear. Once they are full, they will no longer appear. For more information please email: nac.exam@doh.wa.gov

With assistance from the Nursing Care Quality Assurance Commission (NCQAC), the Department of Health (DOH), Leading Age Washington and Washington Health Care Association (WHCA), the Department of Social and Health Services (department) applied for a statewide 1135 waiver request due to widespread barriers identified for the nurse aide (NA) training and certification program in Washington state. On September 29, 2022, CMS approved the statewide waiver valid until March 29, 2023 (180 days), or until the end of the public health emergency (PHE), whichever comes first. It is important to understand that despite having more time to complete this requirement, facilities

need to continue moving rapidly towards the goal of achieving certification for all NARs that exceed the 4-month requirement as the PHE may end before March 29. 2023.

**PDN Issues and Possible Pediatric Certified Nursing Assistant:** HCAW invited Bill Sczepanski from Team Select Home Care who has operated in Colorado for 20 years with a CNA model of care to speak to our group and answer questions. We continue to review the work that Leslie Elder at Seattle Children's Hospital (SCH) is doing on ways to expand care for medically fragile children in our state.

The NCQAC will be running a bill this session to establish a pediatric NAR and CNA training track. Debbie Carlson from the Nursing Care Quality Assurance Commission will be speaking at our next meeting to talk about the potential legislation and what she knows about it so far! The next meeting will be on October 13th at 2 pm.

**Department of Labor and Industries (L & I)**

**L&I proposes 4.8 percent increase in workers' comp rates for 2023:** L&I workers' compensation insurance covers about 2.6 million workers and about 187,000 employers in Washington. They are proposing a 4.8 percent increase in the average price employers and workers pay for workers' compensation insurance next year. If adopted, the increase would mean employers and workers would jointly pay an additional $61 a year, on average, for each full-time employee within a business.

Employers and workers pay into the workers' compensation system to help cover the cost of providing wage and disability benefits for injured workers, as well as medical treatment of workplace injuries and illnesses. Workers will continue to pay on average about a quarter of the premium, a similar percentage to that paid in 2022.

General wage inflation and increasing medical costs all make it more expensive to provide this workplace safety net. As workers' wages go up, the cost of insuring them goes up as well, since much of the benefits directly paid to workers are tied to how much they are getting paid.

Public hearings are scheduled for 10 a.m. on Oct. 26 and Oct. 27 to take input on the rate proposal before a final decision is made. To support social distancing, the public hearings will be held virtually. Final rates will be adopted on Nov. 30 and go into effect Jan. 1, 2023.

**2023 rates hearings** at **10 a.m., Oct. 26 and Oct. 27:** Join Zoom Meeting at: https://lni-wa-gov.zoom.us/j/4283482697 Meeting ID: 428 348 2697 Joining by phone: +12532158782 US (Tacoma) Meeting ID: 428 348 2697

People are encouraged to submit comments in writing to: Jo Anne Attwood, administrative regulations analyst, P.O. Box 41448, Olympia, WA 98504-4148; or email JoAnne.Attwood@Lni.wa.gov. All comments must be received by 5 p.m. on Oct. 28. More information about the proposal is available at www.Lni.wa.gov/2023Rates.

**Fall 2022 WA Health Sentinel Network**: Starting Monday, September 26th, please take approximately 20 minutes to respond at **www.wa.sentinelnetwork.org/join** This will take approximately 20 minutes, depending upon the size and complexity of your organization. Examples of questions:

- What are your current workforce experiences and concerns?
- What are examples of policy changes that would be beneficial for your organization?
- What health workforce challenges are you facing now compared to six months ago?

We have added supplemental questions for facilities employing behavioral health occupations across the state, addressing the following topics:

- General level of preparedness of applicants and new hires
- Specific skills and knowledge preparedness of applicants and new hires
- New behavioral health education approaches and occupations
- Use of distance education in behavioral health workforce development

**Policymakers are paying attention to your input**: The WA Health Workforce Sentinel Network is funded by the Legislature, and it's clear that policymakers are paying attention to this tool. For example, the information provided by you helped the state craft regulatory changes to respond to the COVID-19 pandemic and invest in promising workforce pathways. As the pandemic continues, let policymakers know what workforce challenges you are facing now. See what other Sentinels are saying on the findings dashboard, in policy briefs, and COVID-19 findings pages. **Questions?** Email healthworkforce@wasentinelnetwork.org or call (206) 543-9797.

***Ongoing Public Policy Meetings***

**WA State Senior Citizens Lobby:** I will be attending their Fall conference in October.

**Dementia Action Collaborative:** I have been selected to continue to participate in the states Dementia Collaborative! I will continue working on a various committees to make sure that they continue to include in-home services in the collaborative's discussions.

**WA State Telemedicine Collaborative:** I participate in these meetings to follow issues closely related to providing telemedicine services in the home.

**Palliative Care Roadmap Still Available!!** We received good news from Pat Justis that DOH found grant money to reprint the roadmap. It's still posted on DOH Rural Health webpage, as well as the WA Rural Palliative Care Initiative portal To order: https://prtonline.myprintdesk.net/DSF/