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HCAW April 2024 Public Policy Report

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Now that the legislative session is over as of March 8th, the 2024 election season has officially begun and the calls from legislators are rolling in for campaign fundraising! This legislative session was Jay Inslee's last as Governor. On Friday, March 29th with the enactment of the 2024 supplemental operating budget, the governor signed his last bill. Over three terms, Inslee signed 4,212 bills in total.

Just for some perspective, there were around 1,200 bills introduced this session and the Department of Health (DOH) had 33% of the bills. Of that the DOH Health Services Quality Assurance Division (HSQA), that covers health care licensure, had 35% of those bills (more than any other DOH division). Includes:

- 23 bills require DOH implementation (not including provisos)
- 1 agency+ 1 WABON (Nursing Board) request bills (ARNP title and uniform facilities enforcement)
- 4 new profession sand certifications
    - Anesthesiologist assistant
    - MRI tech
    - Psychology associate
    - MA-EMT
- 2 new compacts (Social Worker and Physician Assistant)
- 4 scope of practice or supervision changes
- 4 bills require DOH to participate on workgroups
- 3 require DOH to contribute to Reports to Legislature
- 1 proviso requires DOH to conduct an analysis on Certificate of Need
- 19 bills require agency rulemaking
- 14 bills HELMS configuration (Healthcare Enforcement & Licensing Management System)

Successful Legislative Session! All of our fiscal requests were in the final budget and the palliative care bill passed! It was a 60-day short session, but we managed to get a lot done in a short amount of time this year. We are involved in many of the DOH issues listed above so it will be a very busy interim before the next legislative session as well.

SSB 5936 Palliative Care Benefit Workgroup: Bill passed the legislature unanimously and was signed with the Governor and Dr. Gregg VandeKieft of Providence Hospice. Provides $228,000 of the insurance commissioner's regulatory account— state appropriation is provided solely for implementation of SSB 5936 palliative care work group. The work group must convene its first meeting by July 30, 2024, and shall submit a report to the Legislature detailing its work and any

recommendations, including any legislation, by November 1, 2025. We have lots of work to do in the interim! The work group must consider the following elements of a palliative care benefit:

- clinical eligibility criteria;
- the services included in the benefit;
- appropriate staffing;
- evaluation criteria and reporting requirements; and payment models.

In-Home Services Roadmap Funding: $83,000 of the general fund—state appropriation for fiscal year 2025 is provided solely for the development of an in-home services road map to help individuals assess their in-home services needs and locate providers to serve those needs in their communities. DOH must work in consultation with appropriate stakeholders, including but not limited to the department of social and health services. The department must complete the document and make hard copies available for distribution no later than June 30, 2025.

Funding for Private Duty Nursing and Home Health Medicaid Rate Increases: Provided solely for rate increases, effective January 1, 2025, for private duty nursing, home health, and the medically intensive children's group home program services. Effective January 1, 2025, to independent contractor nurses and agency-employed nurses providing private duty nursing, skilled nursing, and private duty nursing in adult family homes.

HB 2166 - Increasing access to portable orders for life-sustaining treatment. Status: Dead. This bill would have allowed for bracelets and necklaces that had a QR Code or some technology that would reach a POLST Registry. This would have been great for patients who are traveling outside of the home and have a POLST Form at home on the fridge!

Good news! A budget proviso was included that requires the DOH to establish and maintain a statewide registry containing the POLST forms submitted by health care providers and Washington residents! $719,000 of the general fund—state appropriation for fiscal year 2025 is provided solely for the department to establish a statewide registry that stores and digitally reproduces portable orders for life sustaining treatment (POLST) forms. In establishing the registry, to the extent practicable, the department shall leverage and build upon any previous work at the department to establish a similar registry.

SHB 1939 Social Worker Compact: Supports adoption of the Social Worker Compact in WA State. Social workers are key members of home health and hospice teams. **Status:** *Signed by the Governor*

SHB 2128 Modernizing the certificate of need program: ***Died*** The original bill established the Certificate of Need Modernization Task Force to determine whether CON is still viable in Washington state and updated the 1987 State Plan that created it. Here is what passed in the budget!

Budget Proviso for CON Review by DOH: (138) $500,000 of the general fund—state appropriation for fiscal year 2025 is provided solely for the department to conduct an analysis of the certificate of need program established under chapter 70.38 RCW and report its findings and recommendations for statutory updates to the governor and appropriate legislative committees by June 30, 2025. The department must, at a minimum, consider other state approaches to certificate of need, impacts on access to care, cost control of health services, and equity, and approaches to identifying health care service needs at the statewide and community levels.

Health Care Authority (HCA)

HCA is proceeding with their rulemaking on EVV. We have requested that they have a stakeholder meeting prior to their April 12th comment period closing. We are finalizing a letter from an attorney regarding the implementation of the EVV program at HCA.

WAC external review proposed revisions: WAC 182-551-2230 Electronic visit verification – System requirements. The agency is adding a new section describing system requirements for electronic visit verification (EVV) for home health care services.

***To comment**: Download the Word document, use track changes, save, and return to the email address in the first column below.*

Review 182-551-2230

Department of Health (DOH)

DOH Update on backlog of nursing assistant and home care aide applications: This situation has caused significant and serious concerns for health care providers, including hospice staff and those awaiting credentialing fir a hospice aide. The consequence of removing these individuals from direct care work could be devastating for long term care communities causing real economic hardship for workers, staff who may need to work added shifts, hospitals which may face discharge delays, and residents who may receive less than optimal response times within our settings.

According to DOH, the backlog is, in large part, a result of waivers put into place during the COVID-19 public health emergency. The waivers allowed home care aides and nursing assistants to continue working past the 200-day limit in home and community-based care settings such as adult family homes and assisted living facilities or 120 days in skilled nursing facilities, without completing the credentialing process. Currently, the pending home care aide applications include individuals who applied as early as 2020, who are moving through processes under the COVID-19 public health emergency rules. Pending nursing assistant certified applications are being processed for initial review approximately 60 days after submission.

DOH agrees the nursing assistant and home care aide workforce is critical to Washingtonians and the vulnerable adults served in long term care facilities and we are focused on addressing the credentialing backlog for these critical and important professions. A large portion of the legislative funding appropriated for credentialing in fiscal year 2024 is currently being directed to make improvements to credentialling processes. Changes include adding 15 additional staff, development of improved performance measures, and organizational changes to better align with efficient and expedient process changes. Planned improvements include:

Home Care Aide Certification:

- Credentialing team increasing from seven to twenty-three staff dedicated to processing applications.
- Automatic approval of home care aide applicants to test as soon as the application is received, and the ability of applicants to self-schedule testing during their training.
- Adding four additional home care aide testing sites across the state to improve access.
- Forming a workgroup that will pilot moving the home care aide exam into the training programs.
- Forming a workgroup that will revise the home care aide skills exam to make it more relevant for working home care aides and to assist in capturing knowledge to potentially increase pass rates.

Nursing Assistant Certification:

- Credentialing team increasing from eight to twelve staff that are dedicated to processing applications.
- Eliminating the requirement that applicants must take and pass the NNAAP skills exam before submitting a certification application.
- Extended work on the skills exam location options, and improving score result transferability.

In the meantime, DOH encourages both nursing assistant and home care aide applicants to submit their applications online, rather than paper applications. Online applications can be processed faster than paper applications, therefore reducing wait times. Nursing assistant certified applicants are encouraged to complete their application at the same time that they register with Credentia for the written and skills testing to allow for simultaneous processing.

DOH may be able to help move forward applications for those individuals that are within two weeks of their credentialing deadline if their application was submitted at the time of hire and is complete with all required documentation. For assistance with this, please contact:

- Home Care Aide Program at HomeCareAide@doh.wa.gov or 360-236-2700.
- Nursing Assistant Program at HSQAReview4@doh.wa.gov or 360-236-2700.

DOH Rulemaking

Home Care Aide Workforce - Reducing Barriers. The Department of Health is considering amending chapter 246-980 WAC to implement Engrossed Second Substitute House Bill 1694, (chapter 424, Laws of 2023) and Engrossed Second Substitute Senate Bill 5278, (chapter 323, Laws of 2023). These laws reduce barriers to hire home care aides. Filed as WSR 24-06-066.

Medication Assistance in Community-Based and In-Home Care Settings. The Pharmacy Quality Assurance Commission and Department of Health are filing jointly to reinstate medication assistance rules which establish criteria for medication assistance in community-based and in-home care settings in WACs 246-945-710, 246-945-712, 246-945-714, 246-945-716, 246-945-718, 246-945-720, 246-945-722, 246- 945-724, 246-945-726, and 246-945-728. This adopted emergency rule will extend WSR 23-23-032 filed on November 3, 2023, without change. Filed as WSR 24-06-047.

Occupational Therapy Practice Board: The Occupational Therapy Practice Board (board) is considering updates to temporary permits and fees. The Occupational Therapy Practice Board (board) and the Department of Health (department) are considering amendments to WAC 246-847-117, Temporary permits, in response to Second Substitute House Bill (2SHB) 1009, (chapter 165, Laws of 2023), the Washington Military Spouse Employment Act. The board and the department will also consider amending WAC 246-847-990, Occupational therapy fees and renewal cycle, to establish a fee to cover the cost of the temporary permit.WSR_24_06_055 OT Rulemaking.pdf

Department of Health announces updated guidance for COVID-19 and other respiratory illnesses: DOH announced updated guidance for what to do when someone is sick with COVID-19, flu, respiratory syncytial virus, and other respiratory viruses. While much of DOH's new guidance is like recent updates announced by the Centers for Disease Control and Prevention, DOH's new guidance offers additional recommendations on how to prevent spreading respiratory illnesses after someone becomes infected, as well as how to protect people with weakened immune systems and others at higher risk of severe illness in health care settings. Healthcare and long-term care settings should follow DOH recommendations.

DOH- Updated Guidance

DOH HELMS Project: Healthcare Enforcement and Licensing Management System (HELMS) is a new electronic licensing system that will replace the outdated system currently in use and will match the growing requirements and expectations of customers.

What are the benefits? HELMS will expand the online capabilities for health care providers, facility operations, educational programs, and the public. There will be greater access to DOH data, as well as faster transmission of information using electronic mail and websites. HELMS will:

- Modernize credentialing services, processes, and capabilities.
- Expand mobile capabilities for the professions and the public.

When is HELMS launching? The first release, HELMS Lite, is scheduled to launch on **4/24/2024.** It will replace the system used for our initial application process. This will improve the new applicant's experience with the ability to submit applications from their mobile device, update their profile information, delete draft applications, view their application status online, and print payment confirmation. Additional HELMS releases with improved functionality are scheduled through December 2025. For more information, please visit the website, or email at HELMS@doh.wa.gov.

Military spouses - removing barriers to temporary practice permits: DOH is proposing amendments to WAC 246-12-051 How to obtain a temporary practice permit - Military spouse, to update language changes made by Second Substitute House Bill (2SHB) 1009 (chapter 165, Laws of 2023). The comment period for this filing ends 5/6/2024. WSR 24-06-028 For any questions/comments please reach out to the military programs manager @ tommy.simpson@doh.wa.gov or send comments to military_liaison@doh.wa.gov.

Aging and Long- Term Support Administration (ALTSA)

ALTSA saw a modest 0.6% overall increase in our budget. Around 90% of ALTSA's budget goes directly to providers and client services. Among these investments, they highlight: **https://content.govdelivery.com/accounts/WADSHSALTSA/bulletins/3936441**

Washington's Sentinel Network: is a collaboration of the state's Workforce Board and the University of Washington's Center for Health Workforce Studies and a program of Washington's Health Workforce Council. Funding to initiate the Sentinel Network came from the Healthier Washington initiative, with ongoing support from Governor Inslee's office and the Washington Legislature. As an employer, your voice matters in shaping healthcare in Washington. By completing a brief questionnaire now, you will improve understanding of Washington's health workforce needs. Please register at https://wa.sentinelnetwork.org/join

Explore insights from fellow Sentinels on our findings dashboard, in policy briefs, and overarching and pandemic-related findings pages. Questions? Email healthworkforce@wasentinelnetwork.org or call (206) 543-9797.

Washington Saves retirement act (SB 6069), set to launch in 2027: Washington is set to create a state-run automatic retirement savings system for workers who don't already have access to an employer-based retirement system. Washington Saves will require businesses without retirement plans for employees to allow their workers an opportunity to contribute to an individual retirement account (IRA) via an automatic payroll deduction through the Washington Small Business

Retirement Marketplace. Employers will be required to enroll employees who have had continuous employment of one year or more in the program at default contribution rates.

According to an analysis by AARP in 2022, about 43% of Washington workers in the private sector work for a company that doesn't offer retirement plans — about 1.2 million people. Lack of access also varies by demographics — 66% of Hispanic workers, 47% of Black workers and 43% of Asian American workers do not have access to an employer-provided plan in Washington. Overall, 42% of all men and 44% of all women do not have such a plan. The legislation that created the system, Senate Bill 6069, was signed into law on Thursday by Gov. Jay Inslee. It passed the Legislature this year, with final votes of 55 to 41 in the House and 35 to 12 in the Senate.

Oregon established the first state-run automated individual retirement savings system in 2017, and several other states, including California, Maryland and Virginia, have followed suit, according to Pew Charitable Trusts.

Policy Related Meetings

WA Cares Fund Provider Maximum Rates Workgroup Purpose: Review viable options for Long-Term Services and Supports Trust Commission's recommendation required in RCW 50B.04.030(c) on the "*establishment of payment maximums for approved services consistent with actuarial soundness which shall not be lower than Medicaid payments for comparable services. A service or supply may be limited by dollar amount, duration, or number of visits. The Commission shall engage stakeholders to develop this recommendation.*" The Commission will make formal recommendations to DSHS by January 1, 2025.

Washington State Workforce Development-LTC Initiative: I attend these meeting representing all in-home services and advocate for increasing their workforce. I have recently been participating in the Ecosystem LTC staffing workgroup. Lots of good opportunities to talk about in home services needs and how the current Nursing Assistant backlog impacts agencies.

WA State Senior Lobby: I attend these monthly meetings and get updates on all legislative issues impacting seniors.

DOH Rural Palliative Care Cohort Meetings: I attend these meetings to provide WSHPCO updates to their providers on our progress with HCA on the Palliative Care Benefit.