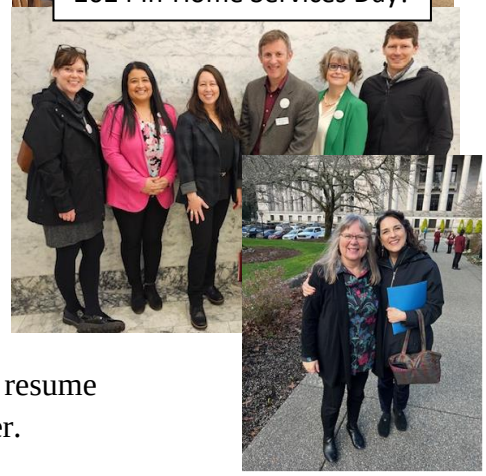
February 13, 2024

HCAW February 2024 Public Policy Report

Prepared by Leslie Emerick, HCAW Public Policy Director

Legislative/Political Landscape



We are over the halfway mark for the 2024 "short" 60-day legislative session which began on Monday, January 8, and runs through March 7th. Short sessions are very fast paced and the last day to consider bills being heard in their House of Origin (House bills in House and Senate bills in the Senate) is February 13th. After that the bills that did not make it through the process so far die for the legislative session.

As this policy report is being produced, the Legislature is working hard passing bills on the floor and spending time in caucus where Democrats and Republicans discuss and strategize which bills they will be voting on next. This phase of legislative action, referred to as "floor action" began last week and will continue until Tuesday evening, February 13. On Wednesday, February 14, each chamber will resume committee work, hearing bills that were passed by the opposite chamber.

Just a reminder that bills live for 2 years in a biennial legislature, which started last year, and short sessions often focus on legislation that didn't pass in 2023 so it's been a challenge tracking bills from last session as well as new bills introduced this session! Around 1,500 bills were under consideration this session, many of them have died already…especially in the fiscal committees where cost to the state was a major factor in passage. The fiscal committees were being very conservative this year because they are unsure of the status of the revenue forecast coming up. HCAW has been tracking 128 bills this session and we are down to 43 bills after the bill cut-off dates so far. Many of last year's bills finally died!

In-Home Services Day February 1, 2024

We had a great In-Home Services Day this year! It was nice to be back on the hill in person after three years of virtual legislative days. This is a day where the Home Care Association of WA, Home Care Association of America-WA Chapter and the WA State Hospice and Palliative Care Organization collaborate on an In-Home Services legislative agenda. Around 43 people attended from all over the state and we met with 47 legislators. You did a great job in your meeting with legislators and/or their legislative assistants, and it does make a difference! Good work and thanks to all who attended for making a very successful and impactful day!!

February 13, 2024

State Operating Budget

This year the legislature will create the Supplemental Operating Budget for the state that amends the 2-year operating budget that passed last year. The latest State Revenue forecasts are to be submitted to the governor and legislature on or around February 14, 2024 this year. This means that the legislature will release their supplemental operating budgets very soon after the release! There are three budgets that are considered in a final budget, the House, Senate and Governor's budget must reach a compromise budget by the last day of session, March 7th! At this time, I do not know if the House or Senate budget bill will be the "vehicle" moving forward this session. Just a reminder that we have two budget requests that we are working on getting into the state budget this year!

Major Issue Impacting Legislature this Session! According to the Washington State Standard newsletter on policy and legislative issues, a slate of six ballot measures that will put Democrats on the defensive this election year over policies they've championed is on track to go to voters in November. Secretary of State Steve Hobbs has certified that each of the initiatives has the required number of signatures in support to advance. Three of the initiatives could put sizable dents in the state budget and derail key Democratic priorities.

-Initiative 2117 would end the state's cap-and-trade program, which is designed to curb carbon emissions from industry and has so far generated about $1.8 billion for climate and environmental programs. The initiative got some bad press this summer over high gas prices that have now come down to a more normal level. Oil companies blamed the Governor and the Governor blamed oil companies for the gas hikes…we will see what the public thinks and if they want to support efforts to address climate change in WA State.

-Initiative 2109 would repeal the state's new capital gains tax (which applies only to gains over $250,000 in a year and does not cover real estate sales). The tax yielded nearly $900 million for education and childcare in its first year. Washington state could lose nearly $6 billion in funding for education, early learning programs, and childcare over five years if this initiative to repeal the capital gains tax is approved by voters, according to a fiscal note released by the Department of Revenue Thursday, Feb. 8.

Initiative 2124 would make it easier for people to opt out of the state's long-term care program, which levies a 0.58% tax on workers' paychecks and provides up to $36,500 for long-term care expenses in old age, or other scenarios. This initiative could seriously damage the WA Cares Act in Washington state that is attempting to provide some funding for people to be able to stay in their home longer.

The other three measures would: loosen restrictions on police pursuits; block state and local income taxes; and guarantee parents access to certain information about their kids' schools.

February 13, 2024

Here are the 2024 legislative session priorities:

Budget Provisos must be in either or both HB 2104/SB 5950 to be in the final supplemental operating budget in 2024!

In-Home Services Roadmap-Budget Proviso: Funding is for the development of an In-Home Services Roadmap to help individuals assess their in-home services needs and locate providers to serve those needs in their communities. Many patients and their families do not know how to access home care, home health, private duty nursing, hospice, and palliative care services. These services keep patients safe in their homes to assist with activities of daily living, recover from an acute hospital stay or serious illness and provide end of life care. Modeled off the successful Dementia and Palliative Care Roadmaps. **$83,000 of the GF-S for fiscal year 2025 (HB 2104/SB 5950)**

Medicaid Reimbursement Rate Increase, Private Duty Nursing and Home Health-Budget Proviso: This funding helps addresses the "difficult to discharge" population filling our hospitals in WA state. Due to low Medicaid reimbursements, the families of medically fragile children cannot find enough private duty nursing to provide complex care for children in their homes and often stay in hospitals. Home health is equally as difficult to access due to low Medicaid reimbursements. This proviso increases reimbursement rates by 20% for the Home Health and the Medically Intensive Children's Group Home Program; and increase the rates for independent contractor nurses and agency-employed nurses providing private duty nursing, skilled nursing, and private duty nursing in adult family homes.
Fiscal year 2025 GF-S $2,328,814/ GF-F $2,693,053 (HB 2104/SB 5950)

SB 5936 Convening a palliative care benefit work group: The Office of the Insurance Commissioner (OIC) will assemble a workgroup of private insurers, palliative care providers, health care associations and state agencies to develop a standardized method of billing for a palliative care benefit in private insurance that will mirror Medicaid, PEBB and SEBB. Funding for fiscal note in OIC, not GF-S.

- **Status**: Bill passed Senate Health Care committee and the Senate unanimously! It is scheduled for a public hearing in House Health Care Committee on February 14th - 1:30 pm.

SHB 1939 Social Worker Compact: Supports adoption of the Social Worker Compact in WA State. Social workers are key members of home health, palliative care and hospice teams.

- **Status:** Passed Postsecondary Education & Workforce and passed out of House unanimously. Scheduled for public hearing on February 15th, Senate Healthcare committee.

HB 2166 - Increasing access to portable orders for life-sustaining treatment. Requires the Department of Health (DOH) to establish guidelines and protocols for emergency medical personnel to recognize alternative evidence that a person has executed a Portable Order for Life Sustaining Treatment (POLST) form and that the person does not wish to have resuscitation efforts.

Requires the DOH to establish and maintain a statewide registry containing POLST forms submitted by health care providers and Washington residents.

Status: House Passed unanimously! Moving to the Senate Healthcare Committee.

SHB 2128 Modernizing the certificate of need program: The original bill establishes the Certificate of Need Modernization Task Force under DOH to determine whether CON is still viable in Washington state and updated the 1987 State Plan that created it. See updated bill link below.

The Substitute bill, E2SHB 2128 Concerning the modernization of the certificate of need program passed out of the House of Representatives February 12th with a vote of 97/0. It now moves to the Senate Health Care Committee for hearings and must pass the Senate and be signed by the Governor for passage this session. There is bipartisan support for an extensive review by the Governor's Office of Financial Management (OFM) to hire a contractor to perform a review of certificate of need (CON) programs in other states and other research on the impact of CON to inform the Advisory Committee. A representative from each of the healthcare facilities type, which includes home health and hospice, will be on the Advisory Committee.

(9) The contractor shall submit their findings and recommendations to the governor and each chamber of the legislature in two phases.

(a) By December 15, 2024, the contractor shall submit a preliminary report summarizing the findings based on the review of items identified in subsection (3) of this section. This report must be submitted to the governor and relevant committees of the legislature and presented to the advisory committee.

(b) By October 15, 2025: (i) The contractor shall formally present their findings based on the review of items identified in subsection (3) of this section and their recommendations to the advisory committee. The recommendations must focus on whether to modernize, expand, reduce, eliminate, or maintain the certificate of need program based on access to care, quality of care, and total health care expenditures. The advisory committee must have an opportunity to provide feedback to the contractor on all recommendations.(ii) A final report must be submitted to the advisory committee, the governor, and relevant committees of the legislature. The final report to the legislature must include the contractor's findings, recommendations, and any feedback from the advisory committee on the recommendations…

Governor's Proposed Budget includes Certificate of Need Assessment: Funding is provided to conduct an analysis of the certificate of need program established under chapter 70.38 RCW and report findings and recommendations 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, equity, and approaches to identifying health care service needs at the statewide and community levels. (General Fund - State)

Department of Health (DOH)

DOH Home Health Certificate of Need: Home Health Certificate of Need Rulemaking will be in 2024. Home Health is third on the list of CON Rules DOH Plans to tackle. The HCAW Board continues discussions with Marc Berg, Berg Data, on developing a methodology for home health.

Meeting with DOH Home Care Aide Program Staff February 13th: Home care aides are currently backed up for testing and certification due to a transfer of the Prometric testing system and transition over to DOH. DOH is hiring up to 15 home care aide credential staff to minimize the backlog. In the next 6 months we will see significant changes to the way the testing and certification will be done for HCAs. Starting with on-site testing after training and better scheduling of caregivers.

Updated Home Care Aide Bulletin: 2/5/24
https://content.govdelivery.com/accounts/WADOH/bulletins/388e504.

In February 2024, all applicants will register and pay for their exams directly with Prometric. After submitting the credentialing application with Department of Health, applicants will be notified by Prometric via email that they can schedule their exam. **Please Note:** DOH will no longer accept examination fees on or after January 19, 2024, as we roll into the blackout period for the new testing portal. Prometric will also not be accepting payment or scheduling exams within this period.

Reminder: Per RCW 18.88B.041: Exemptions from training requirements. (wa.gov)**,** long-term care workers who are not required to become certified as a home care aide if they are individual providers caring only for the individual's biological, step, or adoptive child or parent; and individual providers caring only for the individual's sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership. If you have questions, please contact the program manager Jenni Osbun.

Important! Home Safety Care Assessment Survey: DOH sent this announcement out on 1/26/24. As you may know, during the 2023-24 legislative session House Bill 1435 directed a workgroup to conduct a survey of in-home services agencies and Consumer Directed Employers (CDEs) to develop a home care safety net assessment. Each CDE and in-home services agency that is licensed under chapter 70.127 RCW to provide home care services, hospice services, or home health services is required to submit financial information to DOH to inform the development of a home care safety net assessment to use in potentially securing federal matching funds under federally prescribed programs available through the state Medicaid plan or a waiver.

Approximately 40% of licensed agencies submitted their surveys. Agencies that did not previously submit their surveys must complete the survey by February 9, 2024. The data being requested is for the 12-month period between July 1, 2022, and June 30, 2023. We have created an online survey so you can submit your information with ease. Please submit your financial information via the survey

link below by **February 9, 2024**. When you open the survey, please disregard the January 1, 2024 deadline date (this was the original deadline - **we have reopened the survey with a new deadline of February 9, 2024**). Home Care Safety Net Assessment Survey, HB1435. If you have additional questions on the survey home page, please contact us.

Board of Nursing (BON)

New Health Equity Continuing Education Requirement

No Health Equity Continuing Education Requirement is required for CNA's as there are no CE requirements for NAC's (with the exception of NACs with the Med. Assistant endorsement), the topics were however included in the updated core curriculum for education programs. The Health Equity CE's do not apply to Health Care Aides either….

Washington nurses must meet health equity continuing education to renew their license. These requirements must be done during the renewal period and can't carry over.

As of Dec. 22, 2023, the new health equity continuing education (CE) requirement is: **2 hours of health equity CE every renewal period (see below)** These hours count toward the required 8 hours total of continuing education. All **licensed RNs and LPNs** have until their **2026 renewal date** to complete 2 hours of health equity CE. After 2026 renewal, nurses must complete 2 hours of health equity CE every renewal period.

Nurses applying for a license have until their **2nd renewal date** to complete 2 hours of health equity CE. After 2nd renewal, nurses must complete 2 hours of health equity CE every renewal period. More information below:

- Continuing Competency Requirements
- DOH Health Equity Continuing Education (includes free CE options)

- WAC 246-840-222: Continuing competency requirements—Health equity continuing education
- WAC 246-12-830: Health equity continuing education training content
- WAC 246-840-220: Continuing competency requirements—Active status
- RCW 43.70.613 Health care professionals—Health equity continuing education

WA Multistate License Application for Nurses opens Jan. 31, 2024: Starting Jan. 31, 2024**,** nurses whose primary state of residence (PSOR) is Washington will be able to apply for a multistate license. What do nurses need to know?

- Starting Jan. 31, 2024, nurses whose primary state of residence is Washington state, will be able to apply for a multistate license (MSL). You must complete an FBI background check as part the application process. (We will email you instructions after you apply.)

- We expect the MSL application review process to take 2 to 3 weeks. Don't try to apply for an MSL before Jan. 31, to avoid additional nonrefundable licensing fees.
- NLC Multistate License (MSL)
- NLC Implementation Plan

Health Care Authority (HCA)

Home Health EVV: HCAW continues to raise concerns about EVV with the Health Care Authority. This project is very expensive for our providers and difficult to implement. We will keep you updated on how our discussions go…concern is growing around the country about EVV…

Apple Health (Medicaid) Provider Alert: This is a reminder for all Home Health Care Services (HHCS) provider organizations that implementation of electronic visit verification (EVV) at each organization and enrollment of all HHCS individual servicing providers with the Health Care Authority (HCA) is required. Only a few providers have enrolled their individual servicing providers with HCA.

HCA Website on EVV: Home health care services: electronic visit verification**.** Electronic visit verification (EVV) is a federal requirement of the 21st Century Cures Act, passed by Congress in 2016 requiring that Medicaid funded in-home personal care services, respite care services, and home health care services are verified as having been provided. Home health care services (HHCS) covers any home health services included in the **home health billing instructions** and **encounter data reporting guide**. **Enroll individuals as a servicing provider:** To enroll individuals as a servicing provider, **visit the enroll as a health care professional practicing under a group or facility page**. **View frequently asked questions**

WA Cares Fund: AARP reached out to me regarding how the WA Cares Fund will structure payments to people taking care of their family members and friends who need care. I was able to connect Jeff Wiberg, Family Resources Home Care, to the call to answer questions on how the current home care system works for agencies who provide both private pay and Medicaid home care. He was also very knowledgeable about how the Consumer Directed Care entity works in WA State. The AARP team said that they will reach out to us again as the program progresses. There are a number of bills this session that address the WA Cares Fund and an initiative that is trying to eliminate it!

LTC Workforce Ecosystem Subcommittee Meeting on January 10, 2024: Guiding Factors for Recommendations: Recruitment**,** Retention**,** Career training and education**,** Credentialling**,** Leadership training. **Subcommittee Work:**

LTC Ecosystem: Key Issue: Marketing of LTC as a career destination

HR and Worker Support: Key Issues: Retention strategies, Leadership development

Training and Career Pathways: Key Issues: Training and Licensure for NACs and HCAs, Simplifying credentialling and testing.

Rural and Underserved Communities: Key Issues: Currently working to establish barrier areas and identify key challenges for rural communities.

Policy Related Meetings

WA State Senior Lobby: I attend these monthly meetings and will be making a presentation on our efforts on establishing a palliative care benefit in Washington state on February 12th.

NAHC State Association Meetings: I attend the monthly state association meetings to listen to federal updates from Bill Dombi and others on home health!

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.

Dementia Action Collaborative (DAC): I attend the DAC meetings and am on the Health and Medical subcommittee. Washington State Plan to Address Alzheimer's Disease and Other Dementias | 2023-2028 is now available.