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HCAW June 2023 Public Policy Report

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Legislative Landscape

The WA State Legislative session ended on time April 23, but Governor Inslee did call the legislature back to finish their work in a Special Session on May 16th. In February 2021, the WA State Supreme Court in State v. Blake declared unconstitutional Washington's strict liability drug possession law, which criminalized (as a felony) the unintentional, unknowing possession of a controlled substance. The session ended without passage of a new drug use & possession law. In the Special Session, the Legislature adopted permanent drug-related legislation in SB 5536. The session was one day long and the Governor signed the bill that day!

HB 1694 - Home care workforce shortages bill signing with Rep Chambers and Governor Inslee.

Now that the session is over, state agencies now begin the work of developing the recently authorized rulemaking and establishing workgroups that were initiated in the legislative session. This work will roll out over the summer and fall as they move through the Administrative Procedures Act that requires a public process for new state agency rules. I will be reporting on these efforts in future reports over the interim!

2023-2025 Final State Operating Budget- $69.8 Bill (ESSB 5187): On May 16th Gov. Jay Inslee signed the new 2023–25 operating, capital and transportation budgets. The legislature spends $69.8 billion in the new operating budget, including $4.7 billion in new spending. Overall, this is a very good budget for health care. It makes significant investments in rate increases for long-term care and addressing health care workforce shortages, especially for nursing and home care aides. It adds approximately $4.7 billion in new spending; leaves a total of $3 billion in reserve accounts; and doesn't include any broad tax increases. For perspective, the last biennial operating budget was around $64 billion dollars.

Operating Budget Provisos of Interest to Home Care, Home Health and Hospice…

Skilled Nursing Rate Increase: We are in discussions with the Rates Manager, Peter Graham at DSHS, on how to interpret a new rates increase. According to Peter, the funding provided in the last legislative session established increased rates for RN Nurse Delegation and Skilled Nursing Services. There was a minor increase in rates of approximately 2% for all individual providers and a larger 24% increase to any provider that meets the definition of an agency. This was modeled based on rate increases PDN providers experienced in the supplemental 2023 session. Agency providers

are defined as an entity who provides these services and have a home health license. Although draft, this is what I believe the full definition will look like:

Legislative nursing rate increases have been designated for individuals and agencies. To be eligible for the agency rate, a contracted provider must be licensed as a home health agency. A "Home health agency" means a person administering or providing two or more home health services directly or through a contract arrangement to individuals in places of temporary or permanent residence. A person administering or providing nursing services only may elect to be designated a home health agency for purposes of licensure. See RCW 70.127.010.

Starting July 1, 2023:
- Most individual providers of PDN, RND, or Skilled Nursing Services will see a rate of $12.86 /qrt hour
- Most agency providers of PDN, RND, or Skilled Nursing Services will see a rate of $15.43 /qrt hour

There are some rates that aren't paid in quarter hour units, so they have been adjusted for the 2% and 24% based on whether the provider falls under the definition of an Agency. **We are awaiting final confirmation as to whether this applies to our private duty nursing agencies who care for medically fragile children and adults. More to come!**

Medicaid Pediatric Palliative Care Rate in Final Budget: Medicaid rates for pediatric palliative care have not been raised since 2006 and have fallen significantly behind. Because of the low reimbursement, Pediatric Palliative Care has been severely underutilized in WA State. We sincerely hope that this new funding will increase the ability of pediatric palliative care providers to utilize this funding source in their agencies and care for more children in WA State starting January 1, 2024! Here is the budget proviso language:

$56,000 of the general fund—state appropriation for fiscal year 2024, $111,000 of the general fund—state appropriation for fiscal year 2025, and $166,000 of the general fund—federal appropriation are provided solely for the health care authority to increase pediatric palliative care rates to the equivalent Medicare rates paid for hospice care in effect October 1, 2022, beginning January 1, 2024.

Funding for the Mediciad Home Care Rate The state legislature allotted $762 million for home care wages and benefits.

- For Independent Providers (IPs), bargaining with CDWA (Washington's DSHS Consumer Directed Employer.) CDWA is a partnership between Consumer Direct Holdings, Inc. and the Home Care Workers Purpose Trust (Trust). They will be voting on an agreement that raises IP wages by 10-11%, bringing the starting wage to $21 an hour and making sure the most

experienced caregivers with advanced training will earn over $25 an hour by the end of their contract. This funding also adds healthcare coverage for caregivers' kids, and increases PTO, retirement, and mileage benefits.
- Agency Providers will begin bargaining this summer (see below).

Agency Provider Parity (DSHS): RCW 74.39A.310 requires that home care agency providers shall receive wage and benefit parity with individual providers. Funding is provided for increases in the home care agency rate that corresponds to the new labor rate adopted by the rate setting board established in RCW 74.39A.530.

Agency Provider Administrative Rate (DSHS): Funding is provided to increase the administrative rate paid to home care agencies by 56 cents per hour effective July 1, 2023.

Katie Beckett 1115 demonstration waiver: The Katie Beckett Waiver is for children (those under age 19) who have disabilities or complex medical needs. It's especially valuable for children who are not eligible for Medicaid because of their parents' income or assets, because eligibility for the waiver only takes into account the income and assets of the child. This program helps pay for pediatric home care nursing that private insurance does not cover. Currently 24 other states offer this program and now Washington state will be added to the list!

Health Care Workforce Investments in Budget: (Source: WA State Hospital Association) The budget provides funding for several programs designed to grow the state's health care workforce, including the following that amount to about $24.3 million state and $24.4 total funds:

- **$1.2 million total to implement the multistate nurse licensure compact**. (SSB 5499)
- **$55,000 state ($107,000 total) to implement the traveler agency transparency bill**. (SSB 5547) Funding is provided to DOH to conduct rulemaking requiring nursing pools to register and disclose corporate structure and ownership.
- **$6 million state for the nurse preceptorship grant program** to pay nurses who are preceptors.
- **$560,000 state to help increase the number of clinical placement opportunities.**
- **$2 million state provided to award incumbent healthcare worker training matching grants** to labor-management partnerships, such as the SEIU Multi-Employer Training Fund.
- **$3.6 million state** to increase the number of nursing slots in the community college system.
- **$4.6 million state provided to hire additional faculty and staff** to serve additional students in the EWU BSN degree programs.
- **$3.9 million state provided to increase nurse educator salaries** to support the WSU College of Nursing's reaccreditation effort.
- **$2.4 million state to implement components of the nursing supply bill.** (ESSB 5582)**:** Funding is provided for the implementation of the high school certified nursing assistants.

Here are bills that we will be working on over the summer in either rulemaking or participating in a Workgroup:

SHB 1435 Developing a home care safety net assessment. Requires consumer-directed employers and in-home services agencies to submit specified financial information to DOH 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.

E2SSB 5278 Home care aide certification. Allows DOH more discretion for the preparation, grading, and administration of the home care aide certification examination. Requires 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.

E2SHB 1694 Addressing home care workforce shortages.

- Expands timelines and testing opportunities for long-term care workers seeking a home care aide certification.
- Expands the list of family members who are exempt from having to become certified 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 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.

SB 5582 **Reducing barriers & expanding educational opportunities to increase supply of nurses in Washington. Includes: Home Care Aid to LPN Apprenticeship Pathway Program**

- **Apprenticeship Pathway Program:** is created with three pilot locations in geographically disparate sites. A report is due to the Legislature on barriers faced by students, the status of the pilot and opportunities to scale-up by December 1, 2025.
- **Marketing Program:** The Workforce Board is required to contract with marketing firms to advertise available nurse training opportunities and jobs in WA.
- **Expanding Nursing Credential Opportunities:** Plan include CNAs, LPNs, & RNs.
    - The plan must prioritize programs which create new capacity, expand training opportunities for rural and underserved students, demonstrate long-term sustainability, and expand partnerships between employers and exclusive bargaining units.
    - A report with the plan is due by December 1, 2024

ESSB 5217 Musculoskeletal Injuries: L&I may adopt rules related to preventing musculoskeletal injuries and disorders that provide standards for an industry or risk classification. This bill is also known as the "Ergonomics Act" .

Difficult to Discharge Pilot (Health Care Authority): Funding is provided for incentive payments, administrative support, and development of home and community assessment requirements for pilot participants in cooperation with DSHS for a five-site pilot program for difficult to the discharge individuals. The final budget funds multiple programs designed specifically to address the populations facing the most barriers to post-acute care placement and long-overdue investments in increased payment rates to Medicaid long-term care providers.

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 DOH.

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 DOH, to report to the board of nursing within 30 days of employment, nurses holding a multistate license issued by a state other than WA.

Health Care Authority (HCA)

Apple Health (Medicaid) Provider Alert: Attention Home Health Providers: (This does not apply to Private Duty Nursing) Beginning with dates of service on and after January 1, 2024**,** all home health *servicing* providers are required to have an electronic visit verification (EVV) method in place or their claims will be denied by the Health Care Authority (HCA) or the managed care organization (MCO) under a mandate included in the 21st Century Cures Act. The Centers for Medicare & Medicaid Services (CMS) extended the deadline for requiring EVV to January 1, 2024, for the State of Washington. This does not apply to private duty nursing agencies.

How does this affect my billing? Additional data elements will be required on home health claims. This is for any claim submitted through an 837 or the ProviderOne portal. New and existing required data elements:

1. Type of service performed (existing)
2. Client receiving the service (existing)
3. Date of service (existing)
4. Location of service delivery (**new**)
5. Individual providing the service (**new**)
6. Time the service begins and ends (**new**)

What do you need to do now? Enroll your servicing providers now! To facilitate the submission of the EVV home health care services data, your organization should begin enrolling all your home health *servicing* providers at the individual level now. Click on the brown box below.

Enroll as a health care professional practicing under a group or facility

Update on Palliative Care Issues for WSHPCO: We have received a copy of the OHSU Center for Evidence-based Policy "WA Palliative Care Reimbursement Project" Report from Sophie Miller at HCA. The Center conducted a policy review, stakeholder interviews, a gap analysis, and a concluding listening session with stakeholders. This report sets forth the Center's key findings, guiding principles and recommendations. Supporting documentation is included in the appendices, including a list of stakeholders who provided practical insights, lessons and advice to the Center and HCA. Sophie says "Our internal work group is meeting next week about next steps with the NASHP institute and you should be hearing from us soon about future sessions to discuss details." Such exciting news! II am attaching a copy of the report to this policy report:

Palliative Care Reimb
Project Final Report (2

Department of Health (DOH)

Licensure Fee Increases and Decreases: There are several fee increases and decreases coming up effective June 1, 2023 for the professions listed below.

- Licensed Advanced Social Worker and Licensed Independent Clinical Social Worker
- Certified Counselor, Certified Adviser, and Registered Agency Affiliated Counselor
- Speech-Language Pathologist and Speech-Language Pathology Assistant
- Physical Therapist and Physical Therapist Assistant
- Home Care Aides

The Legislature passed Engrossed Substitute Senate Bill (ESSB) 5179 in 2023 that made changes the Death with Dignity Act. The changes become effective on July 23, 2023, did the following:

- Allows more licensed healthcare providers to participate in the Death w Dignity Act.
  - Added a definition of "qualified medical provider" that includes physician, physician assistant, and advanced registered nurse practitioner.
  - Added independent clinical social worker, advanced social worker, mental health counselor, and psychiatric advanced registered nurse practitioner to the "counseling" definition.
- Reduces the timeframe a qualified patient must wait to make a second oral request for medication from 15 days to 7 days.

- Allows pharmacies to accept prescriptions electronically, dispense to a person designated by the patient, and offer secure delivery.
- Allows healthcare providers to submit Death with Dignity forms electronically to DOH.

Home Care Aides program at DOH held a big meeting on June 6th: identifying all the issues impacting home care aides including new legislation, rulemaking cohort timelines and more! Rather than cutting and pasting the information from the presentation, I would recommend opening the link below to find out the details from the meeting. Lots of great information!! Also, Stacey Saunders is leaving the program for another position at DOH and the new program manager is Tracie Drake. I think we should meet with her in the near future to introduce private pay home care!!

June 2023 HCA Presentation PDF.pdf

Home Care Aide Customer Experience Survey: In September 2022, the State Auditor's Office published their latest audit report on the Home Care Aide (HCA) program, a requirement in I-1163 that passed in 2011. To address findings in that audit report, the HCA program has created a survey to assess customer experience and opportunities for improvement. Please complete the below survey by Friday, June 2, 2023. https://fortress.wa.gov/doh/opinio/s?s=HCAappProcessFeedback

DOH Home Health and Hospice Certificate of Need: Update for Eric Hernandez: "We have not yet planned rule making for hospice or home health rules at this time. We are in the process of opening a CR-101 for ESRD (kidney dialysis) rules. The recent passage of SSB 5569 has now required us to address ESRD rules first to being rulemaking to implement the new legislation, and we will be opening additional ESRD rules as the bill did not take into consideration other impacts to our rules that emergency expansion may have our need methodology and the potential of inadvertently artificially inflating/deflating need in planning areas." HCAW has developed an internal task force to study and develop a methodology to present to DOH during the rulemaking public meetings based on the model developed by Marc Berg, Berg Data.

Department of Social and Health Services (DSHS)

ALTSA seeks public comment on the draft Washington State Plan on Aging for 2023-2027. WSHPCO has some concerns about not addressing advance directives, palliative or hospice care at the end of life…seems like it should be included in a plan on aging!

- Draft Washington State Plan on Aging for 2023-2027
  - Draft Intrastate Funding Formula (Attachment C)

ALTSA is designated as Washington's State Unit on Aging to administer the federal programs under the Older Americans Act. ALTSA submits a State Plan on Aging every four years to the U.S.

Department of Health and Human Services Administration for Community Living (ACL). This plan provides the opportunity to document current long-term services and supports in our state and helps to frame future long-term care efforts by setting goals around key topic areas.

Comments on the State Plan on Aging may be submitted through June 24, 2023, by email to stateplanonaging@dshs.wa.gov.

Nursing Quality Assurance Commission (NCQAC)

Washington joins Nurse Licensure Compact: The Governor signed the Substitute Senate Bill (SSB) 5499 Multistate Nurse Licensure Compact. The Nurse Licensure Compact (NLC) increases access to care while maintaining public protection at the state level. Under the NLC, nurses with an active multistate license can practice in other NLC states/territories, without obtaining additional licenses. This means that nurses who hold an active multistate license and reside outside of WA state, no longer need a separate WA state nursing license. **This is not yet in effect.**

The Nursing Commission will decide the timeframe and process for implementing the new bill. No dates have been set yet. The Nursing Commission will be addressing it at the business meeting on May 12, 2023. We will send more information and updates via GovDelivery in the coming weeks. Make sure you're signed up for Nursing Commission News and Alerts. For more information go to:

- NCSBN: Washington Enacts Nurse Licensure Compact (NLC)
- NCSBN Nurse Licensure Compact
- NLC Frequently Asked Questions (FAQs)
- NLC's What Nurse Employers Need to Know (PDF)
- www.nursing.wa.gov

Employment Security Department

Washington Cares Act: Exemptions are available for some Washington workers who aren't likely to use their WA Cares benefits in the future. Beginning Jan. 1, 2023, Washington workers became eligible for exemptions from WA Cares if they:

- Live outside of Washington.
- Are the spouse or registered domestic partner of an active-duty service member of the United States armed forces.
- Have non-immigrant work visas.
- Are veterans with a 70% service-connected disability rating or higher.

ESD will process all WA Cares Fund exemption applications submitted on or before June 1, 2023, before premiums take effect in July. For more information, visit wacares.wa.gov/exemptions.

Policy Related Meetings

LTC Initiative - Education & Career Pathways Subcommittee: I attend these meetings to discuss ways to improve the number of health care workers, in particular certified nursing assistants and home care aides entering the health care field.

Subcommittee 2 Recommendation Tab

Dementia Action Collaborative (DAC): I attended the full DAC meeting on April 25th participated on the subcommittee on Health and Medical. I advocate for them including palliative and hospice in their ongoing development of the new Updated Dementia State Health Plan.

WA State Senior Lobby: I attend these monthly meetings representing issues related to home care, home health, hospice and palliative care.

WA State Telemedicine Collaborative: I attend these monthly meetings to get updates on all things related to telehealth in WA State!