March 12, 2024

HCAW March 2024 Public Policy Report

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Legislative/Political Landscape

We glided over the finishline of the 2024 Short 60-Day Session of the Washington State Legislature on March 7th. Before lawmakers wrapped up the session, they settled differences between the House and Senate respective budget plans and approved the Supplemental Operating Budget for the year.

More than 1,200 bills were filed in the Washington state Legislature this year, but only a small percentage of those made it over the final hurdles to pass before the adjournment of the 60-day session. The Legislature adjourned after passing 384 bills as well as state supplemental operating, capital and transportation budgets for the 2023-25 biennium. HCAW was tracking 74 bills during this 60-day short session, where bills can live for 2 years from the former session. Only 31 of those bills passed the legislature. (See Bill Status Report)

2024 Legislative Successes and Issues!! Overall, a great legislative session for In-Home Services! Thanks to everyone who helped get these legislative requests across the finish line by reaching out to your local legislators and attending our In-Home Services Day in Olympia! The final state operating budget was released and our budget proviso requests were all in it! A letter to the Governor requesting he sign the palliative care bill and maintain the budget provisos went out today! Here are the budget provisos we were the proponents of this session:

In-Home Services Roadmap Funding: Page 488-(149) $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. The department 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: 98)(a) $266,000 of the GF-S appropriation for fiscal year 2025 and $348,000 of the GF-F appropriation are 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. (b) The authority must adopt a payment model that incorporates the following adjustments: (i) **A 7.5 percent rate increase for home health and the medically intensive children's group home program services;** and (ii)

Private duty nursing services shall be $67.89 per hour by a registered nurse and $55.70 per hour by a licensed practical nurse.

rr)(i) $361,000 of the GF-S appropriation for fiscal year 2025 and $387,000 of the GF-F appropriation are provided for rates paid, **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. (ii) The department must adopt a payment model that incorporates the following adjustments for independent contractor nurses: (A) Private duty nursing services shall be $56.58 per hour by a registered nurse and $46.49 per hour by a licensed practical nurse. (B) Skilled nursing services shall be $62.93 per day by a registered nurse. (iii) The department must adopt a payment model that incorporates the following adjustments for agency-employed nurses: (A) Private duty nursing services shall be $67.89 per hour by a registered nurse and $55.79 per hour by a licensed practical nurse. (B) Skilled nursing services shall be $75.52 per day by a registered nurse. (iv) Private duty nursing services in an adult family home shall be $898.95 per day.

HCA/MICP (Pediatric) PDN Hourly Rates				
	Current	Final	$ Increase	% Increase
RN	$59.80	**$67.89**	$8.09	**13.53%**
LPN	$49.16	**$55.79**	$6.63	**13.49%**

DSHS/ALTSA (Adult) PDN Hourly Rates				
	Current	House	$ Increase	% Increase
RN	$61.72	**$67.89**	$6.17	**10.00%**
LPN	$50.72	**$55.79**	$5.07	**10.00%**

Service	Final
Medically Intensive Children's Homes (MICP/HCA)	7.5%
Private Duty Nursing Adult Family Homes (DSHS/ALTSA/AFH)	7.5%
Home Health	7.5%

The increases to the Washington Medicaid rates for home health, effective January 1, 2025, will be **applied to all disciplines typically provided by home health agencies**. We have verified that the 7.5% increase applies to nursing, physical therapy, occupational therapy, speech therapy, and home health aide visits, including MSW's.

- Nursing visit: $145.53/visit (currently at $135.38 from October 2023)
- PT: $38.81/15 min
- OT: $36.34/15 min
- SLP: $147.80/visit
- HHA: $73.62/visit

Palliative Care Benefit Workgroup: The SSB 5936 Palliative Care Benefit Workgroup bill passed the legislature unanimously! (22) $228,000 of the insurance commissioner's regulatory account— state appropriation is provided solely for implementation of Substitute Senate Bill No. 5936 (palliative care work group).

Other Budget Provisos and Bills of Interest!

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:** *Bill passed the legislature and is on its way to the Governor for signature!*

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: *Died in the Senate Law and Justice Committee*

End of Life Care Outreach/ Death with Dignity Act Education: Outreach, training, and education resources for providers and hospice teams providing end-of-life care. (DOH $250,000 – GFS/Total $465,000)

HB 2166 - Increasing access to portable orders for life-sustaining treatment. *Died in the Senate Law and Justice Committee*

Budget proviso Requires the DOH to establish and maintain a statewide registry containing the POLST forms submitted by health care providers and Washington residents!
(164) $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.

SB 5241- An act relating to material changes to the operations and governance structure of participants in the health care marketplace. The bill would have placed strict limits on hospitals' abilities to merge and affiliate, often to keep their doors open. The intent of the bill – to maintain access to key services such as women's health care and end of life care – appeared to be overly broad and according to the hospital association, could have led to hospital closures in the most vulnerable communities. This bill could have impacted hospice and home health agencies as well.

Status: *Very controversial and contentious. The bill died in the House this session.*

SHB 2128 Modernizing the certificate of need program: ***Died for the session!*** 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. Here is what did pass 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.

State Supplemental Operating Budget

Supplemental budgets, passed in even years, adjust those biennial budgets, which are adopted in odd years. Proposals must be negotiated between the House and Senate before a final version of the budget is adopted. Lawmakers are constitutionally required to pass a final version before the Legislature adjourns, which was on March 7 last week.

The final compromise Supplemental Operating Budget bill came from the Senate, ESSB 5950 Making 2023-2025 fiscal biennium supplemental operating appropriations. Another good source of budget bill information is the WA State Fiscal Information website. The budget adds about $3 billion in total funding to the $69.2 billion operating budget lawmakers adopted in 2023 for the 2023-25 biennium. There is approximately $4.1 billion still in reserves. Several new policies and millions of new dollars are going toward core issues like schools and behavioral health, including increases in special education funding and support for tribes leading the response to the state's fentanyl crisis.

Senate Majority Leader Andy Billig will not seek re-election: Senate Majority Leader Andy Billig (D-Spokane) announced that he will not seek re-election in 2024. Billig, who was first elected to the Legislature in 2010, will finish his current term and continue to serve as majority leader until a new leader is selected in November. He was elected majority leader in late 2018 and has served in that role since the 2019 legislative session.

Soon after Billig's announcement came out, **Rep Riccelli, Chair of the House Health Care Committee announced that I will be running for the State Senate this year to replace Billig!** State Rep. J.T. Wilcox, who led the House Republican Caucus for five years, announced Wednesday he will not seek re-election this fall. Also of interest, Vice Chair of House Health Care Jessica Bateman has announced her run for the Senate, as Senator Sam Hunt is retiring. Rep Paul

Harris will be running for Senator Lynda Wilson's seat and Rep Kelli Chambers, a longtime supporter of home care and owner of Visting Angels is retiring as well. The Governor, Office of the Insurance Commissioner, Attorney General and Lands Commissioner are all open seats… I suspect more announcements will be coming as we approach an election year. Should be an interesting summer and fall!

Status of Initiatives to the People: All six initiatives were filed by Jim Walsh, the state Republican Party chair and a state representative from Aberdeen, and received financial backing from Brian Heywood, a Redmond businessman.

The Washington state Legislature passed three of six initiatives to the Legislature, which would bar an income tax, put a "parents' bill of rights" into law and lift some restrictions on when police can chase suspects. Initiative 2111 would prohibit the state and local governments from imposing an income tax, taking effect three months after the session ends. Unlike a bill, when initiatives are passed by the Legislature, they do not have to be signed by the governor.

The passage of these initiatives would limit the ballot fight during the 2024 election cycle to three other pending initiatives to the Legislature. The other three initiatives before the Legislature, which legislative leaders have said they will not act on, would do the following: repeal the state's capital gains tax, repeal its carbon market and make a payroll tax to pay for a state long-term-care insurance program optional, will go to the ballot in November.

Health Care Authority (HCA)

Apple Health Preproposal - Statement of Inquiry (CR101) : WAC 182-551-2230**, Electronic visit verification (EVV) - System requirements -To read the filing notice, see WSR 24-05-023**

This rulemaking appears to be an effort to address the technical issues surrounding EVV for home health. 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 covers any home health services included in the **home health billing instructions** and **encounter data reporting guide**.

Department of Health (DOH

Washington State Department of Health Rural Palliative Care Initiative: SILVER: Statewide Palliative Care Network - Center to Advance Palliative Care in celebrating the winners of The John A. Hartford Foundation Tipping Point Challenge. The DOH Rural Palliative Care Initiative has made it their mission to address the lack of equitable access to palliative care in Washington State's rural communities. While palliative care expanded in urban areas, particularly in hospitals, the specialty had not been integrated into rural health systems or community settings—only one-third of

patients in these communities had access. Even fewer rural settings could work upstream to identify and screen patients for palliative care early in the disease trajectory.

DOH Home Health Certificate of Need: Home Health Certificate of Need Rulemaking will be in 2024. The rulemaking may be impacted by the CON Study that DOH is mandated to do in the next year through a budget proviso. The HCAW Board continues discussions with Marc Berg, Berg Data, on developing a methodology for home health.

Home Care Aide and Certified Nursing Assistant Backlog: DOH has a backlog of approximately 2000 nursing assistant applications and 5100 home care aide applications which remain unprocessed. This situation has caused significant and serious concerns for health care providers, including staff and those awaiting credentialing. 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. DOH says changes are coming and are adding 15 credentialling staff to address the effort to reduce or eliminate the backlog.

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 with on-site testing after training and better scheduling of caregivers.

Legislative Changes to the Home Care Aide Profession: Due to recent legislation, the following changes took place on July 23, 2023: WSR 24-02-051 (PDF)

- If a home care aide credential is expired less than five years, no continuing education is required to reactivate the credential. You will need to print and complete the Home Care Aide Expired Credential Activation application (PDF) in ink, and mail with the reactivation fees to the mailing address within the application instructions.
- If a home care aide credential is expired for more than five years, retraining and examination is required, along with printing and completing the Home Care Aide Expired Credential Activation application (PDF) in ink, and mail with the reactivation fees to the mailing address within the application instructions.

New Date of Hire Rule – A caregiver who is not currently certified may receive a new date of hire when beginning work with either a new employer or returning to a former employer:

- If your home care aide application is currently pending, print and complete the Long Term Care Employment Verification Form (PDF). If your home care aide application status is closed, print and complete the Home Care Aide Certification Application Packet (PDF) in

ink, and submit with the application fee to the mailing address within the application instructions.
- If you need to apply for a home care aide certification, see our Home Care Aide Licensing Information webpage and complete the online or paper application.
- If your home care aide certification is expired, print and complete the Home Care Aide Expired Credential Activation Application (PDF) in ink and submit with the reactivation fees to the mailing address within the application instructions.
- You may be able to provide care to the following individuals without obtaining or renewing a home care aide credential:
    - Biological, step, or adoptive child or parents.
    - Siblings, aunts, uncles, cousins, nieces, nephews, grandparents, and grandchildren (including by marriage or domestic partnership).

Beginning September 1, 2023, through July 1, 2025: If your credential has been expired for more than six months but less than two years, your credential will be automatically renewed with no fee, forms to complete, or continuing education requirements.

- Legislative Report: 2023 Long Term Services/Emergency (RCW 18.88B.021) (PDF)

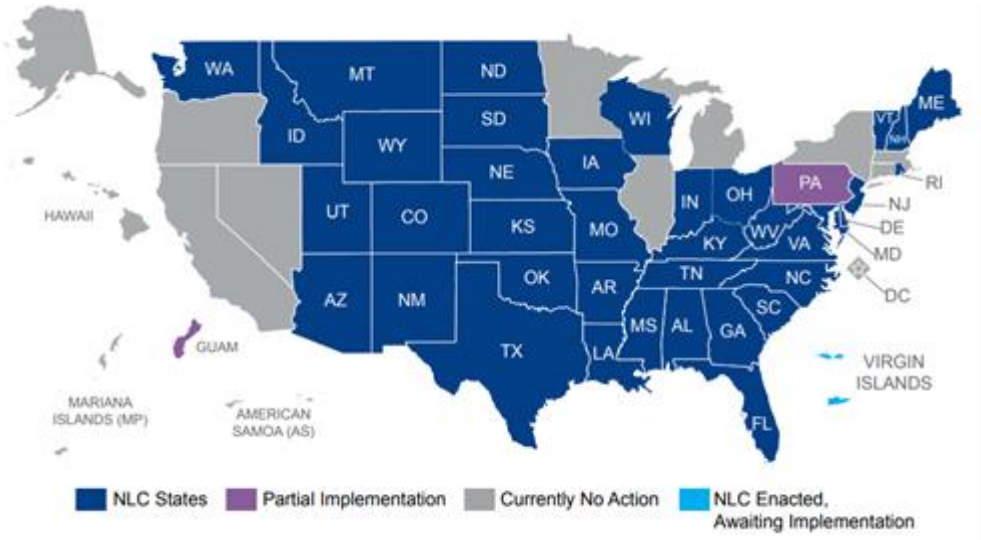
WA Cares Fund Provider Maximum Rates Workgroup Purpose: I have been attending this workgroup with Julie Ferguson, Advanced Health Care. The purpose is to review viable options for Long-Term Services and Supports Trust Commission's recommendation required in RCW 50B.04.030(c) on the "*establishment of 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.

Board of Nursing (BON)

New process for the Nursing Assistant Exam

Washington state nurses, did you know you can now apply for the new WA multistate license?

If you have an active Washington single-state license, and want a multi-state license (MSL), simply apply for an MSL upgrade. Washington state is one of 41 jurisdictions in the Nurse License Compact. Having a WA multistate license provides you with flexibility, increased access for patients, and the opportunity to practice in other Nurse License Compact states. Learn more about the Nurse License Compact here.



WA Cares Fund: AARP reached out to me for two meetings regarding how the WA Cares Fund will structure payments to people taking care of their family members and friends who need care. They are looking at an option for family members to get paid. We discussed the training for 35 hours of caregiving, how they would track credentialing and safety concerns for protecting adults.

Policy Related Meetings

LTC Workforce Ecosystem Subcommittee: Working on Recruitment**,** Retention**,** Career training and education**,** Credentialling**,** Leadership training.

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 HCAW and 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.