

December 3, 2021

## WAHCA December 2021 Public Policy Report

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### Policy Overview

Wow, is it December already? This year has flown by with lots of policy and COVID related activity for WAHCA/HCAOA. The Fall 2021 Legislative Days were held the week of November 15-19, 2021, with all the health care committees meeting and having work sessions on issues such as workforce shortages, COVID-19 updates, extending emergency funding add-ons for Medicaid home care providers and

more! I have met with several legislators over the past few weeks and there is lots of support for addressing the workforce shortage.



The main take away is that the legislature recognizes that there is a severe work force shortage in health care. Especially in nursing at the LPN/RN level and Certified Nursing Assistants. Wages for CNA's are not competitive when fast food chains are offering positions starting at \$19 an hour and up. SEIU's LTC worker presentation talked about the new baseline for CNA and Home Care Aides being \$20 an hour. You might find this SEIU presentation at the Aging and Disability Committee hearing interesting...



SEIU LTC

Presentation 11-15-21

As you are aware, it has also been very difficult to recruit new nurses in this environment. Nurses had some pretty scathing testimony about how hospitals are paying for traveling nurses at extremely high rates to work alongside of them and not being willing to pay the nurses on staff more money to retain them.... Bottom line is that they all support trying to get more home care aides, CNA's and nurses in the pipeline for the future, just not sure how they are going to get there. I am expecting some kind of legislative proposals addressing this issue next session!

We did get some good news! [Washington gets another positive state revenue forecast](#) (Seattle Times 11-19-21) Updated numbers by the Economic and Revenue Forecast Council show that projected revenue collections for the 2021-2023 budget cycle are \$898 million above what had been originally forecasted in September. And projections for the next two-year budget cycle that ends in mid-2025 increased by more than \$965 million. Revenues for the current budget cycle that ends mid-2023 are now projected to be \$60.2 billion. And projected revenues for the next two-year budget cycle that starts July 1, 2023 are projected to be about \$64 billion. Hopefully this will help resolve some Medicaid rate issues for LTC and more!

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Legislative committee hearings in 2022 will be virtual again and floor action will be in person for legislators. Lobbyists are allowed on the Capital Campus this session on a limited basis, so not sure how that will work but willing to try it out. Just a reminder that next session will be the “Short” 60-day Legislative Session: January 10 – March 11, 2022.

**Washington Cares Act:** One of the big controversial issues this session will be a delay of the Washington Cares Act. Passed in 2019 by the Legislature and signed by Inslee, the WA Cares Fund creates a 0.58% payroll deduction on employees, set to begin in January. Starting in 2025, eligible beneficiaries could then start claiming up to \$36,500 to help pay for things like home care, meal delivery, assisted living or other needs.

WAHCA was supportive of the legislation when it passed two years ago because it will boost funding available for home care. The implementation of the legislation has run into major problems and has become quite unpopular as it goes into effect. Governor Inslee announced that they were looking for ways to stop the bill from going into effect for at least another year while they work out the problems with the bill.

According to the Seattle Times article below, “a range of critiques has emerged this year as the program began to get off the ground, with concerns that too many people would pay the tax but never receive benefits, as well concern over the inability of some people to take advantage of the one-time opt out from the program this year. Opponents and even some supporters acknowledge a range of people who will pay into the tax, but never become eligible for benefits. That includes roughly 150,000 people who work in Washington but live in another state; workers who ultimately leave to retire elsewhere; and military families coming in and out of the region.

Other workers were not able to make use of a one-time opt out to the program because private insurers offering long-term coverage stopped offering policies. Here is the full article from The Seattle Times: [Inslee, Washington state Democrats discuss delaying WA Cares long-term care payroll tax](#)

### **Department of Social and Health Services (DSHS)**

**Update on TB testing for LTC workers:** “These rules are suspended in response to the significant threat of COVID-19 to our most vulnerable populations, especially for those receiving long-term care services in their homes and congregate settings, such as long-term care facilities. This rule-filing extends the emergency rule until March 05, 2022. Information is available online:

- [Emergency Rules Suspending TB Testing](#)

**Substitute House Bill 1411 Relating to health care workforce eligibility for persons with prior involvement with the criminal justice system:** The department filed a permanent rule on November 4 to amend [WAC 388-113-0020](#) as a result of the passage of SHB 1411. The intent of this filing is to preserve and expand the workforce of long-term care workers balancing client

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choice and safety while maintaining the statutory requirement of character, competence and suitability determination. WAHCA was supportive of this legislation in the 2021 legislative session. To read the rule filing and final language, click [here](#).

**COVID-19 Guidance for LTC:** The following guidance documents include changes to references that include the secretary of health's masking order; change in quarantine length for fully vaccinated, exposed residents from 14 days to seven days (with completion of post-exposure testing); and removal of links to archived CDC guidance.

- [Outdoor Visitation Guidance for Long-Term Care \(LTC\) Settings](#)
- [Risk Assessment Template to Assess COVID-19 Exposure Risk for Residents/Clients after Community Visits](#)
- [Supplemental Guidance for Long-Term Care Facility Visitors](#)
- [Interim Guidance for SARS-CoV-2 Source Control in Health Care Settings](#)
- [L&I and DOH Respirator and PPE Guidance for Long-Term Care: Employer responsibilities for respiratory protection program and provision of personal protective equipment \(PPE\)](#)
- [L&I and DOH Respirator and PPE for In-Home Care Agencies: Employer responsibilities for respiratory protection program and provision of personal protective equipment \(PPE\)](#)

**LTC Worker Training Program Flexibility Rulemaking initiated:** The department is planning to amend WACs [388-112A-0010](#) and [388-112A-0300](#) to establish rules that allow for remote skills training which provides for more flexibility in training our long-term care workforce in remote areas. To read the preproposal click [here](#). If you are interested in participating in this rule making process, please contact Angel Sullivan at [angel.sullivan@dshs.wa.gov](mailto:angel.sullivan@dshs.wa.gov).

**Reasons why rules on this subject may be needed and what they might accomplish:** RCW 18.20.270(9) stipulates that “the coordinated system of long-term care training and education must include the use of innovative types of learning strategies such as internet resources, videotapes, and distance learning using satellite technology coordinated through community colleges or other entities, as defined by the department.” Under gubernatorial suspension of training rules and coordinated efforts to expand opportunities for remote training during the COVID-19 pandemic, DSHS contracted with a DSHS approved training company to conduct a pilot basic training program in which skills would be taught, demonstrated, reinforced, and remediated remotely. Data from student Prometric skills test pass rates for students involved in the pilot revealed success at a rate equal to that of students trained in person. The success of the pilot indicates that remote skills training is not only feasible but can also be effective. Remote skills training has the potential to greatly increase the ability for students in remote areas to access training, and in turn augment an already strained long-term care workforce. Currently, there are no rules in place that allow for remote skills training or set standards for training programs that might offer it.

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**DSHS and DOH Stakeholder Workgroups on SHB 1218:** [SHB 1218](#) addresses the quality of life, health, and safety of long-term care residents during a state of emergency, such as a pandemic. During the 2021 legislative session, the legislature passed two bills in response to the COVID-19 public health emergency with major impacts on long-term care facilities and homes. I have been participating in these meetings. The final draft report has not been sent out yet before the December 2021 deadline.

The proposed rule amends WAC 284-170-130 to add definitions relevant to telemedicine and creates a new WAC section – WAC 284-170-433. The new section addresses coverage of telemedicine services generally, including payment parity and the conditions in ESHB 1196 associated with payment for audio-only telemedicine services. For more information, including the adopted rule (CR-103) and the concise explanatory statement, please visit the [rule's webpage](#).

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

**In-Home Services Rules:** DOH plans to update the In-Home Services Rules. No date set yet. Do you have suggestions for changes to the hospice related rules that should be made? We need to let John Hilger at DOH know soon so he can begin to incorporate into the draft for stakeholder review.

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

**LPN Apprenticeship and LTC Nursing Workforce:** This group is an extension of the multiple years of work on the LTC Workforce Steering Committee. The LPN Apprenticeship and LTC Nursing Workforce virtual summit was held on October 22, 2021, and there are more workgroup meetings coming up for me in the near future. I am an official member of this workgroup and will continue to offer ideas from our association membership. The LTC Workforce Development Steering Committee submitted [The LTC Workforce Development Final Report - June 2021 \(PDF\)](#) to the legislature in June 2021. The report includes legislative recommendations for continued work to support the needs of long-term care.

### **Ongoing Public Policy Meetings**

**WA State Senior Citizens Lobby:** I attended the full day conference and listened to legislators and Governor staff talk about the state budget and next session. The state is in good financial condition considering a pandemic and employment issues!

**Dementia Action Collaborative:** There will be new legislation proposed in 2022 to continue the efforts of the DAC and update the state Dementia Plan. I have been participating in the states Dementia Collaborative for several years. I am working on a readmissions committee with this group that includes discussions around in-home services.

**WA State Hospital Association (WSHA) Readmissions Workgroup:** I am in the WSHA Readmissions Workgroup. I am trying to incorporate in-home services into their discussions!