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## WAHCA January 2022 Public Policy Report

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### Policy Overview

Happy New Year! We got off to a great start with about 5 inches of snow on the West side of the state and many more on the East side. The “orb” in the picture is at the Port of Olympia.



The “Short” 60-day Legislative Session starts on January 10<sup>th</sup> and goes through March 11, 2022. The Omicron variant of the COVID-19 virus is spreading rapidly in Washington state and legislative committee hearings in 2022 will be virtual again. Floor action will be a mixture of in person and virtual for legislators. Lobbyists may be allowed on the Capital Campus on a limited basis, but not sure how that will work out yet....

Bills started being pre-filed on December 6 and I have started a [tracking list](#). Bills will be assigned committees this week and our first schedule will come out on Wednesday evening. I will be reviewing to see if we need to have a “hot team” meeting to determine positions on bills so far.

The Governor’s \$62 billion budget came out on December 16<sup>th</sup> with a focus on climate change, homelessness, and salmon recovery. I have attached the items highlighted in the Governor’s budget that could impact In-Home Services at the end of this report. The Governor is required by law to release a budget in December. The House and Senate budgets will come out after the February revenue forecast comes out. The final supplemental budget will be a negotiated compromise of the three budgets due by the end of session mid-March.

The most recent numbers presented last month by the state’s Economic and Revenue Forecast Council showed that projected revenue collections for the 2021-2023 budget cycle were \$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.

**Virtual In-Home Services Advocacy Days, January 27-28!** For over 8 years WAHCA, HCAW and WSHPCO have met with state legislators collaborating on a legislative agenda to support home care, home health and hospice. There will be an orientation prior to the In-Home Services Advocacy Days to go over our talking points and how to talk to your legislators, especially if there are several people in your meetings which are typically 15-minute long. You have one Senator and two House of Representatives in your district. They may be scheduled at different times during the 2-day advocacy days, or sometimes all three are willing to meet together! Some agencies may want to meet with more legislators in their service area. **Please register now so we can begin scheduling appointments with your local legislators** by filling out your name, agency, in-home services association, and your legislative district number. To register got to: [In-Home Services Advocacy](#)

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**Day Registration.** I am working on the “song sheet” for the event and will add more issues as bills are introduced during the early session....

**LTC Coalition for Extending COVID-19 Rates:** WAHCA and HCAW have been participating in a coalition with providers of skilled nursing, assisted living, adult family homes, private duty nursing and home care to extend the emergency funding for COVID-19 permanently. A letter has gone out to legislators on our behalf to support the continuation of these funds. The Governor’s Budget does extend the funding until the end of the fiscal year in June 2022, then begins to ramp down in the next fiscal year July 2022. The position of the coalition is that we can’t go back to the former funding rates and that the emergency funding rate is the new “floor”.

**Washington Cares Act:** Will be a delayed for a year while the legislature does a variety of “fixes” for the program. WAHCA was supportive of the legislation when it passed two years ago because it will boost funding available for home care. 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. We will be tracking any related bills introduced this session.

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

**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 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](#)

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- [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).

**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.

### **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 home care related rules that should be made? We need to let John Hilger at DOH know soon so he can begin to incorporate into the stakeholder draft.

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

**Nurse Licensure Fee Increases:** On November 10, 2021, the Department of Health in consultation with the Nursing Care Quality Assurance (NCQAC) filed a CR-101 (WSR # 21-23-053) to consider changes to the fees and renewal cycle for registered nurses, licensed practical nurses, advanced registered nurse practitioners, and nursing technicians. RCW 43.70.250 requires that the costs of licensing each profession be fully borne by members of that profession. Rulemaking is needed to ensure fees cover the costs of licensing the professions. A fee change may be necessary to cover the cost of a database solution to replace an outdated licensing system, for staffing to continue nurse license processing within legislated timelines and staffing to address increased workload associated with nursing assistants and the long-term care crisis.

Covid-19 pushed longstanding nursing workforce shortages in long-term care (LTC) into crisis. Legislated stakeholder work produced solutions within the NCQAC's authority:

- **Massive transformation in Nursing Assistant training and testing capacity**
- Implement training and testing modalities, apprenticeship pathway into nursing, rules

Support expansion of qualified nursing workforce

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To address the crisis, NCQAC proposes:

- Phase One - NCQAC staffing (5 FTEs)
- Phase Two - Pilot program implementation

Annual financial impact on NCQAC: Approximately \$750K beginning FY23

**LPN Apprenticeship and LTC Nursing Workforce:** This group is an extension of the multiple years of work on the LTC Workforce Steering Committee. I am an official member of this new 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!

### **Governor's 2022 Supplemental Budget Highlights Potentially Impacting In-Home Services**

#### **Department of Health**

**Delays in Nursing Licenses:** Funding is provided for 10.0 FTE licensing staff to achieve faster turnaround on completed nursing licenses. (Health Professions Account - State)

**Long-Term Care Nursing Staff Crisis:** The Nursing Care Quality Assurance Commission will expand nursing assistant training and reduce the time someone needs to complete their nurse certification exam. The commission will also create an apprenticeship pathway to improve job prospects for nursing assistants and licensed practical nurses. (Health Professions Account - State, General Fund - State)

**Nurse Preceptor Grants:** Funding is provided to set up a grant program to provide funding to nurses who are willing to supervise nursing students in health care settings. The goal of this program is to help reduce a shortage of health care settings for students to conduct their clinical hours and bring more nurses into the field. (General Fund - State)

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**SEIU 1199 General Government:** The collective bargaining agreement includes a general wage increase of 3.25% for fiscal year 2023 and a retention bonus payable in two equal installments. (Health Professions Account - State, General Fund - Local, General Fund - Federal, other funds)

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

**In-Home Provider PPE:** In-home care providers provide personal care to Medicaid clients in the client's home. Personal protective equipment maintains the safety of the provider and client. Funding is provided to purchase, store, and distribute PPE to in-home providers. This assumes that Federal Emergency Management Agency (FEMA) funding expires in March 2022. (General Fund - State, General Fund - Local CRC Oregon, General Fund - Medicaid Federal, other funds)

**APS Abuse Registry:** Funding is provided to establish a process to review requests from providers to be removed from the Adult Protective Services (APS) vulnerable adult abuse registry. The new process will take into consideration varying degrees of harm perpetuated by an individual and any rehabilitation sought after an APS finding. (General Fund - Medicaid Federal, General Fund - State, General Fund - Local CRC Oregon, other funds)

**CDE Transition Costs:** In April 2022, the Consumer Directed Employer will become the new administrative employer for over 45,000 individual providers who serve clients in their home. Funds will be provided from DSHS to the new CDE in April. Funding is provided to account for premiums for paid family leave. (General Fund - Medicaid Federal, General Fund - State, General Fund - Local CRC Oregon, other funds)

**COVID Positive Units:** Funds are provided for units in nursing homes specifically for patients with COVID-19. These units are separate from other nursing home residents and help create more capacity in acute care hospitals that are facing critical shortages of hospital beds due to the pandemic. (Coronavirus St Fiscal Recovery Fund - Federal)

**Acute Care Hospital Capacity:** The COVID-19 pandemic led to a shortage of beds in acute care hospitals. From October through December 2021, ALISA offered incentive payments to long-term care settings to take patients from acute care hospitals who have been in the hospital for more than 30 days without a discharge plan and who no longer need acute levels of care. (Coronavirus St Fiscal Recovery Fund - Federal)

**Case Management Ratios:** Case managers conduct home visits, respond to safety concerns, and connect clients to health and community resources. Lower caseloads contribute to better health outcomes for clients and reduce the need for expensive institutional stays for clients. Funding is provided for 20.6 FTE staff to reduce the number of cases per case manager from 94 to 75 clients. (General Fund - Local CRC Oregon, General Fund - Medicaid Federal, General Fund - State, other)

**Personal Protective Equipment:** Personal protective equipment helps contain the spread of COVID-19 and reduce infection rates. Funding is provided to purchase, store, and distribute PPE to DSHS employees. This assumes that Federal Emergency Management Agency (FEMA) funding

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expires in March 2022. (General Fund - Medicaid Federal, Coronavirus St Fiscal Recovery Fund - Federal, General Fund - Cash, other funds)

**Targeted Provider Rates:** Funding is provided to continue the COVID-19 rate enhancements that expired on December 31, 2021 to contracted providers. The rate enhancements are reduced by 20 percent every two quarters in fiscal year 2023 and fiscal year 2024. This includes appropriations related to unanticipated receipt number 0027. (General Fund - State, General Fund - Medicaid Federal, General Fund - Local CRC Oregon, other funds)

**SEIU 775 Agency Providers Parity:** Funding is provided to for the homecare agency parity impacts of the agreement between the governor and the service employees international union healthcare 775nw. (General Fund - Medicaid Federal, General Fund - State, General Fund - American Rescue Plan Act (ARPA), other funds)

**SEIU 775 In Home Providers:** Funding is provided for the implementation of an agreement reached between the governor and the adult family home council under the provisions of chapter 41.56 RCW for fiscal year 2023. (General Fund - Medicaid Federal, General Fund - State, General Fund - American Rescue Plan Act (ARPA), other funds)

### **Health Care Authority**

**FMAP Increase:** The federal Families First Coronavirus Relief Act authorized additional Federal Medical Assistance Percentage (FMAP) funds for the duration of the public health emergency. State funds are reduced and Medicaid spending is increased to reflect an additional 6.2 percent federal Medicaid matching rate from January through June 30, 2022. (General Fund - Local CRC Oregon, General Fund - Cash, General Fund - Medicaid Federal, other funds)

**Acute Care Hospital Capacity:** Funding is provided for incentive payments to skilled nursing facilities to take Medicaid clients discharged from inpatient care. (Coronavirus St Fiscal Recovery Fund - Federal)