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WAHCA November 2021 Public Policy Report

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Policy Overview

It looks like legislative committee hearings in 2022 may be virtual again and floor action will be in person for legislators. That will mean that lobbyists will probably be barred from the Capital Campus again this session. Nothing formal has come out to confirm this...just conversation with legislators at this point! Just a reminder that next session will be the “Short” 60-day Legislative Session: January 10 – March 11, 2022.

I am gearing up for the 2022 Legislative session and have started conversations with legislators on issues impacting in-home services agencies who provide home care, home health and hospice. As you know we have been working cooperatively with HCAW and WSHPCO for a long time on issues of concern for our industry and have participated in over 6 years of attending a joint legislative day together. Many of our issues overlap such as workforce shortages and low Medicaid reimbursements. All three associations membership are licensed and regulated under DOH under [RCW 70.127](#). Since these meetings are short and sweet, I often go over the main issues together impacting the in-home services associations.

I am also in the process of scheduling a meeting with Amber Leaders, Governor Office Health Policy Staff, to discuss our legislative agenda for In-Home Services providers issues related to home health, home care and hospice. We are encouraging Amber to please consider home care (including private pay), home health and hospice to be include in discussions around Long-Term Care issues that are mainly focused on at DSHS regulated entities. We are definitely part of the long-term care spectrum!

Proposed Legislative Agenda for 2022 Session

- 1. Palliative Care Insurance Benefit:** Palliative care for patients with a serious or chronic illness is not being reimbursed in a standardized way for palliative care providers in

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Washington state, even though the actual services are being provided around the state. Currently the reimbursement is a patchwork of various billing codes that can be cobbled together to cover the existing provision of this care or disincentivizing palliative care. This proposal would include coverage under the state's Medicaid program as well as private insurers. If you would like more information on Palliative Care, please go to the Palliative Care Roadmap that we created with DOH (and WAHCA participated in its creation!): <https://www.doh.wa.gov/Portals/1/Documents/Pubs/609013.pdf>

2. **Private Duty Nursing Agency Reimbursement:** Private Duty Nursing (PDN) agencies who care for medically intensive children and adults are being paid at the same rate as an independent provider nurses with no agency overhead costs. PDN agencies provide supervision, payroll and oversight and assure shifts by nurses are covered. Currently DSHS pays home care agencies a higher rate to address the overhead costs vs. independent providers. We are requesting that PDN agencies gain additional reimbursement for being an agency provider vs an independent provider. Maintain rates that were provided by federal COVID dollars for retention of current nurses.
3. **Medicaid Home Health 10% Rate Increase Budget Proviso:** Home health did not get a rate increase during the COVID 19 Emergency and is still bearing the high cost of serving the Medicaid population with reimbursement much less than the cost of providing the service.
4. **Maintain COVID-19 Funding for Medicaid Home Care Agencies**
5. **Workforce Shortage Issues and Impacts on hiring Home Care Aides, Certified Nursing Assistants and RNs.**

Fall Legislative Committee Days are coming up and here are the virtual public hearings that are scheduled impacting in-home services. I plan to attend these meetings for WAHCA and listen in for issues related to home care. I have highlighted a few areas of potential policy impacts...but you will see there may be many more areas of interest in these discussions! You can access these hearings on TVW afterwards or during the hearings. Some hearings are allowing for public comment/remote testimony...

Joint (House and Senate) Legislative Executive Committee on Planning for Aging and Disability Issues
11/17/2021 2:00 PM Virtual

Work Session:

1. Medicare affordability.
2. Update on the Developmental Disability North Star Project.
3. **Impact of Medicaid rates methodologies on workforce in long-term care and developmental disability settings.**
4. Update on the WA Cares Fund.

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5. **Public comment. (Remote testimony.)**

To view committee meetings or access the committee meeting documents:

<https://app.leg.wa.gov/committeeschedules> See <https://app.leg.wa.gov/CSIRemote/Joint> to register for remote public testimony.

Senate Ways & Means

11/15/2021 3:30 PM Virtual

Work Session:

1. Revenue and caseloads update.
2. **Update on COVID-19 response funding.**
3. Impacts of vaccine mandate on agency operations.
4. Blake implementation.
5. Broadband expansion.

See <https://app.leg.wa.gov/CSIRemote/Senate> for testimony options.:

<https://app.leg.wa.gov/committeeschedules>

Senate Health & Long Term Care

11/15/2021 10:30 AM Virtual

Work Session:

1. **Health care workforce challenges.**
2. COVID-19 pandemic update. .

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<https://app.leg.wa.gov/committeeschedules>

House Health Care & Wellness

11/18/2021 8:00 AM Virtual

Work Session:

1. Rural health financing.
2. Health Care Cost Transparency Board update.
3. Behavioral health bed capacity update.
4. Update on state pharmaceutical purchasing initiatives.

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<https://app.leg.wa.gov/committeeschedules>

House Appropriations

11/18/2021 3:30 PM Virtual

Work Session:

1. Update on Use of Funding for the Temporary Assistance for Needy Families Program.
2. Update on Use of Funding for the Dan Thompson Trust Fund.

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3. Update on Use of Funding for Transitioning Aging and Long-Term Care Support Administration (AL TSA) Clients from Acute Care Hospitals to Community and Other Settings.
4. 2022 Session Fiscal Preview.

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SEIU Presentation Hazard Pay due to end at the end of the year.

Unless the Governor and the Washington State legislature take action, home care workers will lose hazard pay at the end of this year. But it shouldn't have taken a pandemic for essential workers to be paid a living wage.

And, before the pandemic, access to quality care in Washington's skilled nursing facilities was already at risk, and the pandemic has only made staffing challenges worse. This pandemic did not cause the issues we're experiencing, but it did exacerbate them and make our lawmakers pay more attention to them.

That's why we're demanding that Gov. Inslee and the legislature increase wages for all long-term care workers to at least \$20 an hour – permanently!

DSHS/AL TSA

DSHS and DOH continue to prioritize the need for a stable, trained long-term care work force in the wake of the COVID-19 public health emergency (PHE). The departments have held several joint stakeholder listening sessions and recognize that emergency rules must be put in place to meet this goal. Working in tandem, DOH and DSHS have identified four critical areas to be addressed through either emergency or permanent rules:

Under Authority of DSHS:

- Set dates for completion of training to absorb the backlog of workers hired during the pandemic
- Provide an avenue to grant credit for on-the-job training for those employed during the COVID-19 PHE who were not able to meet the CE renewal requirements.

Under Authority of DOH:

- Set policies around credentialing dates that will support the timelines set by DSHS
- Address the need to re-set the date of hire for workers who failed to renew or whose credential fully expired

While these rules may not be set in place at the same time due to differences in agency processes, DSHS and DOH are fully committed to jointly implementing these critical rules to support the long-term care workforce. Here is the link to the DSHS Emergency Rule Filing regarding training, certification and CE training deadlines at:

<https://www.dshs.wa.gov/sites/default/files/rpau/documents/103E-21-20-004.pdf>

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DSHS LTC Worker Training Rules: On October 18, the department filed a preproposal notice to consider adding new sections in chapter 388-71 WAC, Home and Community Services and Programs, and chapter 388-112A WAC, Residential Long-Term Care Services Training. The intent is to require long-term care workers to complete training requirements by certain dates that would reduce the impact of clients accessing qualified long-term care workers to provide personal care services. 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.

Consumer Directed Employer: Beginning winter of 2021, the Consumer Directed Employer (CDE) will become the legal employer for Individual Providers (IPs) for in-home personal care. As the legal employer, the CDE will assume all IP employer related responsibilities that are currently managed by DSHS and AAAs.

- **Register** for upcoming public webinars at <https://www.consumerdirectwa.com/schedule/>
- Questions? Email the CDE Project Team directly CDE@dshs.wa.gov

Statement of inquiry (CR-101) Related to Background Checks for Home Care Agencies

WSR 21-21-113 on WAC 388-101D-0065, Chapter 388-825 WAC, and WAC 388-845-1615

DDA is planning to amend rules in Chapters 388-825 and 388-101D WAC to align with amendments made by ALTA to Chapters 388-71 and 388-113 WAC regarding background checks, individual providers, and home care agencies. DDA is also planning to amend sections in chapters 388-825 and 388-845 WAC to implement the consumer-directed employer program and align with changes being made to modernize the CARE system.

Department of Health (DOH)

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

Nursing Care Quality Assurance Commission (NCQAC)

LPN Apprenticeship and other ideas for developing the LTC Nursing Workforce

The LPN Apprenticeship and LTC Nursing Workforce virtual summit was held on October 22, 2021. The meeting was over 6 hours long and discussed creating the LPN apprenticeship pathway, ways to get involved, including how to apply to become a pilot site and more!

Here is a link to the agenda. I am on this workgroup and will continue to offer ideas from our association membership.

- [NCQAC LTC Virtual Summit - LPN Apprenticeship Summit & Agenda.pdf](#)

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Emergency Rule Making (CR-103E) Amending NAC and NAR training requirements:

WAC 246-841-405, 246-841-420, 246-841-470, 246-841-490, 246-841-500, 246-841-510 and 246-841-555. Amending specific training requirements for Nursing Assistant Certified (NAC) and Nursing Assistant Registered (NAR). The Nursing Care Quality Assurance Commission (commission) has adopted emergency rules as the permanent rulemaking process continues. The rules in chapter 246-841 WAC provide regulatory requirements for NACs and NARs. These amendments allow additional pathways to comply with current standards. This is the fifth emergency rule and it continues the emergency rule that was filed on May 20, 2021 under WSR 21-12-011 without change. Prior filings were June 26, 2020, WSR 20-14-066; October 23, 2020, WSR 20-22-023; and January 20, 2021, WSR 21-04-004. Transition from emergency to permanent rules were approved by the commission and a notice of intent to begin rulemaking was filed on February 8, 2021, under WSR 21-05-021. Filed as [WSR# 21-19-091](#).

WA Cares Fund: This program has run into a lot of opposition as it is being implemented. WAHCA was in support of this legislation as it was going through the legislature. WE may see some changes this next legislative session....

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. There is an October 2021 deadline to submit a draft to state agencies for review before December 2021 deadline. Here is a copy of the draft and feedback form:



SHB 1218 Draft
Interim Report 9.29.21



SHB 1218 Interim
Report Feedback Form

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 home care.

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