

## WAHCA December 2020 Public Policy Report

Prepared by Leslie Emerick, Lobbyist



### Legislative and Budget Overview

What an incredible year 2020 has been for all of us! The COVID 19 pandemic has tested our health care system in ways we never thought possible...or hoped we would never experience. I am so proud to represent health care providers who are on the front lines of fighting this pandemic by caring for vulnerable populations and trying to keep their staff safe during this crisis. Thank you all for the amazing work that you do and your endurance during this very difficult time.... you rock!

The results of the recent election are sinking in and legislators are gearing up for the 2021 legislative session which officially starts January 11<sup>th</sup>, 2021. Leadership in the Democratic House and Senate Caucus did not change much. There have been some major leadership changes in the Republican Senate with Minority Leader Senator Mark Schoesler stepping out of his leadership role. The caucus elected [Sen. John Braun](#), R-Centralia, as its new leader and [Sen. Ann Rivers](#), R-La Center, as the new caucus chair. [Sen. Shelly Short](#), R-Addy, was reelected as Republican floor leader and [Sen. Keith Wagoner](#), R-Sedro-Woolley, is the new Republican whip. We have solid working relationships with all these legislators and will continue to work in a bipartisan manner next session. The committee membership is still being sorted out, but Senator Cleveland and Representative Cody will remain Chairs of the Health Care Committees.

The new state revenue forecast was released on November 18<sup>th</sup> and it continues the positive trends we saw in September.... including reserves, the next biennium's budget is now balanced! Legislators, budget writers, and the Governor's executive budget offices have committed to rejecting deep health care cuts considering the improved forecast so it's highly unlikely that we will see the draconian cuts that were being proposed over the interim. I will continue to track and respond to the Governor's budget release in mid-December.

This year is the 105-day long session where they develop the two-year operating budget. Just a reminder that there are three operating budgets introduced during a legislative session, the Governor's, the House and the Senate and they all must come to a compromise by the end of the session in mid-April this year...unless they need a Special Session. With Democrats controlling the legislature and the Governor's office they will be motivated to reach a decision by the end of session...but it is a complex budget year, so you never know. More to come!

December 8, 2020

This past week was considered the Fall Legislative Days where they held virtual meetings in all the committees. I mainly listened to the health care committees which had good updates on the pandemic efforts by state agencies and budget updates from fiscal staff. I have been meeting with legislators on the Health Care committees prior to session starting to discuss our priorities...which at this point was mainly expressing concerns about the proposed budget cuts to in-home services!

I have been participating in the Long-Term Care Coalition and they have some meetings coming up:

**Dec 16 at noon: an informational session with incoming freshmen legislators** to introduce the coalition, give an overview of the long-term care system, and position ourselves as resources for legislators.

**Jan 4, 2-3pm: coalition legislative planning session** to share information and intelligence on what is coming down the legislative pike affecting long-term care.

### **2021 Draft Legislative Proposals under Consideration by Stakeholders**

**Health Emergency Labor Standards Act:** is being proposed for the 2021 legislative session by Senator Karen Keiser a D, who is Chair of Senate Labor & Commerce. She also serves on Health Care and is a former chair. The legislation and is currently being viewed by stakeholders prior to introduction. It is problematic in many respects for many employers, and in particular for health care employers. The bill will no doubt generate some significant concerns from the business community. Please keep in mind that this is a draft bill and will not be officially introduced until after the middle of January sometime. I would not be surprised if AWB and some of the bigger health care organizations get involved as well. Since it is out for stakeholder feedback, it will probably change before its introduced so this will not be the final draft.



HELSA draft\_11-16-20  
v2.docx

**Nurse Delegation Bill:** Rep Eileen Cody is proposing a bill for the 2021 legislative session to allow for more flexibility in hospitals, but it impact most nurse delegation settings. Below is the latest draft of the bill. I am working on an amendment that clarifies the distinction between home care and home health agencies. The proposed language is to be placed in Section 1 (3)(d)(iv)

***(iv) Delegation of tasks in an in-home care setting may be done by a registered nurse working as an independent contractor hired by a home care agency regulated under chapter 70.127 RCW.***

This issue has been a constant source of confusion for home care and home health agencies around nurse delegation over the years. Having it clearly laid out in statute would help clarify for the agencies who use or want to use nurse delegation. I have suggested that committee staff contact John Hilger the In-Home Services Program Manager at DOH to help provide insight as to why this clarification would be helpful.



## **Governor Proclamations & COVID-19 Waivers**

**NAR four-month rule proclamation:** The legislature has approved an extension for the governor's proclamation suspending certification requirements in nursing homes. The proclamation, which you can find [here](#), is effective until the termination of the COVID-19 state of emergency or January 21, 2021, whichever occurs first. This means that a nursing assistant-registered can work in a nursing home past 120 days before obtaining a nursing assistant-certified credential.

**Long-term care worker rules proclamation:** The legislature has approved an extension for the governor's proclamation suspending certification requirements in community-based settings (adult family homes, assisted living facilities, and home care agencies). The proclamation, which you can find [here](#), is effective until the termination of the COVID-19 state of emergency or January 21, 2021, whichever occurs first. This means that a caregiver can work in a community-based setting past 200 days before obtaining a nursing assistant-certified or a certified home care aide credential.

**Healthcare worker licensing proclamation:** The legislature has approved an extension for the governor's proclamation removing certain barriers for licensure. The proclamation, which you can find [here](#), is effective until the termination of the COVID-19 state of emergency or January 21, 2021, whichever occurs first. Below is a summary of what the waivers pertaining to nursing assistants do.

**Barriers to continued and uninterrupted healthcare practice, including continuing education and other training requirements and license renewal deadlines:** Licensed health profession rules requiring continuing education (CE), AIDS education, and training in suicide assessment, treatment, and management are waived. This includes the 8 hours of CE required to maintain the medication assistant endorsement and the requirement to demonstrate clinical skills to an instructor in a practice setting in nursing assistant training programs.

**Barriers to the practice of health care provider volunteers:** The requirement to verify that an NA has completed basic caregiver training and core delegation training before delegation, and the Washington state nursing care quality assurance commission community-based and in-home care setting delegation decision tree are waived.

**Barriers to long-expired credential reissuance:** The requirement to retake nursing assistant or nursing training and pass the competency examination prior to reissuance when a nursing assistant-certified credential has been expired for over three years is waived.

The COVID-19 situation is rapidly evolving. You can monitor the following sources for updates:

- Department of Health COVID-19 webpage: <https://www.doh.wa.gov/Emergencies/Coronavirus>
- Governor Inslee's COVID-19 webpage: <https://www.governor.wa.gov/issues/issues/covid-19-resources>
- Washington State COVID-19 webpage: <https://www.coronavirus.wa.gov>
- Federal COVID-19 webpage: <https://www.coronavirus.gov>
- Pearson Vue testing suspension information: <https://home.pearsonvue.com/Standalone-pages/Coronavirus-update/United-States.aspx>

**Inslee announces statewide COVID-19 exposure notification tool:** Gov. Jay Inslee, along with the DOH, announced the launch of WA Notify, a simple, anonymous exposure notification tool to help stop the spread of COVID-19. By adding WA Notify to their smartphones, Washington residents will be alerted if they spent time near another WA Notify user who later tests positive for COVID-19.

**CDC's New Quarantine Guidelines:** DOH is adopting the new [Centers for Disease Control and Prevention \(CDC\) guidelines to reduce quarantine](#) for people who have been exposed to COVID-19. Although both the DOH and CDC currently recommend a quarantine period of 14 days, there are circumstances that allow for a shortened quarantine. These include:

- If a person who is in quarantine has no symptoms, quarantine can end after Day 10.
- If a person who is in quarantine receives a negative COVID-19 test and has no symptoms, quarantine can end after Day 7. Get tested within 48 hours before ending quarantine.

There is a small chance that people who choose to shorten their quarantine period may transmit the infection to others post-quarantine. Therefore, it is critical that the person who has been in quarantine continues to monitor their symptoms and wear a mask through Day 14. If they develop symptoms, they should isolate themselves to avoid infecting others and get tested. Both Washington state officials and the CDC recognize that a 14-day quarantine can impose personal burdens that may affect physical and mental health as well as cause economic hardship. This change in guidelines is meant to help reduce that burden, while continuing to keep our community safe.

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

**Safe Start for LTC Facilities:** [https://www.dshs.wa.gov/sites/default/files/ALTSA/covid-19/LTC\\_Phases.pdf](https://www.dshs.wa.gov/sites/default/files/ALTSA/covid-19/LTC_Phases.pdf)

**Residential Care Services:** A letter regarding the following topic is now available online: [Reminder to Allow Health Care Provider Visits](#)

**Aging and LTC Support Rulemaking:** [WAC 388-71-0975](#) EMERGENCY ADOPTION

WSR 21-01-018, Effective Date: December 3, 2020

The department is amending WAC 388-71-0975, Who is required to obtain certification as a home care aide, and when, to clarify how to interpret the long-term care worker qualifications and requirements in statute and rule that have specific time periods for compliance when there has been a period of time in which the underlying requirements were suspended and waived in whole or part by emergency proclamation by the Governor. [Angel Sullivan](#) (360) 725-2495

**Department of Health (DOH)**

**HCAOA Letter to DOH requesting COVID 19 Vaccines for Frontline Home Care workers:**

Our agencies have been committed to serving COVID-positive and presumptive positive patients during this pandemic. Our ability to continue do so assures that hospital beds are used for those patients who need them most. Because of the crucial role that home health, home care and hospice agencies have in the healthcare delivery system, we would respectfully ask their frontline health care workers be considered part of Phase 1 or the “Jumpstart phase” as categorized by the National Academy of Medicine Framework for Equitable Allocation of COVID-19 Vaccine.

**DOH Message to In-Home Care Agencies:** I was contacted by the DOH Healthcare-Associated Infections Section to discuss increasing COVID-19 outbreaks in home care. We discussed ways the department could assist in-home services agencies to deal with the outbreak. Based on our conversation, they sent out the following update!

DOH Healthcare-Associated Infections Section would like to share some important information and resources with you about preventing the spread of COVID-19 between staff and clients/patients. Below you will find resources on Personal Protective Equipment, N95 Respirators and Screening of Staff. We are also working on updating our guidance documents to reflect current evidence and guidance from the CDC. We will share those links with you as soon as they become available. Please email us questions at [HAI-COVID@doh.wa.gov](mailto:HAI-COVID@doh.wa.gov).

**Personal Protective Equipment:** When community transmission is moderate or high (as it is throughout Washington state currently), healthcare providers should wear a surgical face mask and eye protection for ALL patient care encounters, regardless of patient/client COVID-19 status. Clients should wear a cloth face covering or facemask during care, if possible. Screen clients for symptoms and exposure upon entry to the home. Healthcare providers, including caregivers, should wear a disposable surgical face mask, and remove it after each patient visit or if become soiled.

**N95 Respirators**

- N95 Respirators (or facemask if N95 is not available) should be worn by staff when they are caring for a patient or client with known or suspected COVID-19. A “fit test” is a procedure that tests the seal between the respirator's facepiece and your face. It is done by someone who is trained in fit testing and takes a minimum of 15 to 20 minutes- (Source: OSHA). It is the responsibility of agencies to make significant efforts to provide fit-tested N95 respirators to their staff who are caring for known or suspected COVID-19 patients/clients. If N95

respirators are not available, a surgical face mask with a face shield may be worn and provides acceptable protection. We understand that sourcing N95 respirators and fit testing for staff can be difficult. Here are some resources to assist you:

***The Department of Health has funds to provide some limited fit testing to in-home care agency staff and*** can also provide qualitative fit testing kits and training so agencies can fit test staff. If you are interested in accessing this resource, please fill out this survey as soon as possible: <https://www.surveymonkey.com/r/NQLNXYH> This funding ends December 31<sup>st</sup>, so please respond promptly if you are interested.

- To obtain N95 respirators, you should attempt to order through your normal PPE suppliers. If you are having difficulty obtaining them contact your local Emergency Management Agency. Your local agency's contact information can be found here: <https://www.dshs.wa.gov/altsa/residential-care-services/ppe-facilities>
- For information in setting up a Respiratory Protection Program, visit this site to get information from LNI. <https://lni.wa.gov/safety-health/preventing-injuries-illnesses/create-a-safety-program/sample-safety-programs-plans> You can also feel free to contact our Occupational Health Nurse, Mikkie Nakamura, who can assist you with questions about Respiratory Protection Programs. [Mikkie.Nakamura@doh.wa.gov](mailto:Mikkie.Nakamura@doh.wa.gov)
- N95s are not designed to be reused, however when supplies are low they can be. Please visit this website for information from the CDC on respirator reuse <https://www.cdc.gov/coronavirus/2019-ncov/hcp/ppe-strategy/decontamination-reuse-respirators.html>

### **Screening of Staff and Exclusion from Work**

- Screen staff for symptoms or exposures to COVID-19 daily before beginning work. Staff who have been exposed to someone with COVID-19 should be excluded from work for 14 days after their last exposure. Staff who are symptomatic should be encouraged to seek COVID-19 testing promptly. They should also be excluded from work until they meet the Return to Work Criteria <https://www.cdc.gov/coronavirus/2019-ncov/hcp/return-to-work.html>
- Make and share policies for flexible medical leave with staff and instruct them on how and who to tell if they believe they are sick with COVID-19. Sick staff should stay home.
- If multiple staff are excluded from work due to exposure, refer to the CDC Guidance on Strategies to Mitigate Healthcare Personnel Staffing Shortages <https://www.cdc.gov/coronavirus/2019-ncov/hcp/mitigating-staff-shortages.html>
- Information for staff on unemployment compensation related to exclusion from work: <https://esd.wa.gov/newsroom/covid-19-worker-information>

**COVID-19 vaccine distribution plan UPDATE:** DOH) [continues to make progress](#) with our COVID-19 vaccine distribution planning efforts. This is a really good video from DOH!!



**Timeline: Vaccine Authorizations and Approvals:** Vaccine safety is of the utmost importance to our communities in Washington. The FDA's Vaccines and Related Biological Products Advisory Committee will meet December 10th to review the Emergency Use Authorization (EUA) application submitted by Pfizer on November 20th. An EUA allows the FDA to make a product available during a declared state of emergency before it has a full license. If the EUA is approved, the vaccine will then be vetted by the Scientific Safety Review Workgroup, as part of the [Western States Pact](#). The review by this workgroup will provide another layer of scrutiny and expert review to this process and should take about 1 to 2 days. This will be done while the vaccine is still being processed and shipped, so it should not cause any delay in making vaccine available to people in Washington.

**First Vaccine Arrival:** We are hopeful we will have a vaccine to begin administering by mid-December. The federal government has given us an estimate of 62,400 doses of the Pfizer vaccine for our initial allocation. They have also told us we should receive an estimated total of around 200,000 doses of the Pfizer vaccine by the end of December. Regular weekly shipments should begin in January.

**Allocation and Prioritization:** We are working on finalizing our guidance around initial vaccine allocation and prioritization framework. This framework includes feedback from the communities, partners, sectors, and industries that are heavily impacted by COVID-19, and by the [National Academies of Medicine's Framework for Equitable Allocation of Vaccine for the Novel Coronavirus](#). We are also using guidance from the Advisory Committee on Immunization Practices.

What we know for sure right now is that the first phase of vaccination, called 1a, will focus on workers in healthcare settings serving patients who either have confirmed or suspected COVID-19, along with staff and residents of long-term care facilities. We'll know more about who will be vaccinated in later phases based on input from our community engagement and decisions made by ACIP. Getting vaccine to the people of Washington is a large, coordinated effort and the timeline for when all eligible people can receive the vaccine is still a work in progress.

**Provider Enrollment:** Providers who have fully enrolled in the COVID-19 Vaccine Program by December 6 will be eligible to receive part of the first shipment. As of December 1, we had 116 providers fully enrolled, with many more applications partially completed or pending approval. Clinics, pharmacies, and hospitals are encouraged to enroll right away. Enroll at [www.COVIDVaccineWA.org](http://www.COVIDVaccineWA.org).

We will coordinate with CDC to ship vaccine directly to enrolled providers once vaccine is available. Providers will then be responsible for storing and administering the vaccine. We are meeting with enrolled and interested providers regularly to provide updates and technical assistance.

**Safe Medication Return Program:** Washington's [Safe Medication Return Program](#), a pioneering effort aimed at reducing medication misuse, abuse, and poisonings had gone live on the website. This program creates a unified, statewide, medication return program that will give Washington

residents free, convenient, and environmentally responsible options for disposing of unwanted medication. Physical drop boxes [are available](#). People may also request free mail-back envelopes so they don't need to leave their homes to participate.

People may return most medications. That includes over-the-counter and prescription medications, controlled substance medication, and even household pet medications. Unused and unneeded medications in a household pose a potential risk for poisoning and overdose deaths. Improperly discarded medication also presents an environmental hazard. Flushing medicine down the toilet or throwing it in the trash pollutes water and soil.

Washington is the first state to implement such a program as a result of state law. Funded by drug manufacturers at no cost to taxpayers, the program encourages people to return unwanted and expired medications. MED-Project is the approved program operator, under DOH's oversight.

**Palliative Care Roadmap Completed and Available!!** I have some good news, Pat Justis has located funds for a third printing of the PC Roadmap! It's posted on [DOH Rural Health webpage](#). To order: <https://prtonline.myprintdesk.net/DSF/>

**NCQAC draft Advisory Opinion for Telehealth Nursing Services:** This is of importance due to the amount of telemedicine that home health and hospice agencies have been providing during the pandemic. NCQAC concludes that the appropriately prepared and competent advanced registered nurse practitioner (ARNP), registered nurse (RN), licensed practical nurse (LPN), nursing technician (NT), and nursing assistant (NA), may perform telehealth delivery of nursing care services in settings appropriate for telehealth care within their legal and individual scope of practice.

### **Public Policy**

**WA State Telemedicine Collaborative:** The last was on November 17<sup>th</sup>. Possible new legislation to keep some of the lifted restrictions permanently such as being able to bill for audio only telemedicine visits! Telemedicine Trainings will begin December 7<sup>th</sup> with the Collaboration to meet the January 1, 2021 deadline for all health care providers using and billing for telemedicine!

### **Dementia Action Coalition (DAC) Care Transitions Workgroup: Meeting on December 3:**

I am a member of this new DAC Workgroup charged with identifying strategies, practices and/or programs that would help to minimize unnecessary care transitions with a focus on emergency room visits, hospitalizations and readmissions. Increasing awareness among primary care clinicians and care partners of **potentially avoidable** causes for ED visits, hospital admissions, and readmissions for people with cognitive impairment and dementia. I am sending them information on the NY Home Health and Hospital Collaborative as well!!