

## March 3, 2021 Legislative Update

### High Level Updates

- March 3<sup>rd</sup> was day 52 of 105-day session.
- The Legislature is in the middle of the second week of floor action where they are passing bills on the floor of each chamber.
- Bills need to pass the chamber in which they were introduced by next Tuesday, March 9<sup>th</sup> to remain under consideration.
- Most of the bills WAPA is engaging on have advanced beyond the first three cutoff dates.

### 2021 Legislation Updates

#### HB 1196 – Reimbursement for Audio-only Telemedicine – PRO

- Residents across the state lack quality access to broadband to participate in video visits.
- Some patients are unable to afford smartphones or computers to access telehealth services as well.
- Some patients, especially the elderly, struggle to manage video chats but can easily manage a phone call.
- **Update:**
  - The bill passed the House 94-3 with 1 excused.
  - Several floor amendments were accepted.
  - One amendment that passed prohibits hospitals from charging a facility fee for audio-only telemedicine.
  - An amendment offered by Rep. Marcus Riccelli made the changes below.
    - Requires a provider to obtain a patient's consent to billing prior to delivering an audio-only telemedicine service for which the provider intends to bill.
    - Makes a violation of the consent requirement unprofessional conduct under the Uniform Disciplinary Act.
    - Expands the definition of "established relationship" to include situations where the patient has been treated in the past year by a provider in the same clinic.
    - Removes from the definition of audio only telemedicine the delivery of health care services that are customarily delivered by audio-only telephone technology and customarily not billed as separate services by the provider, such as the sharing of laboratory results.
    - Extends the termination date for the Telemedicine Collaborative from December 31, 2021, to December 31, 2023.

#### SB 5169 – PPE Costs Reimbursement for Providers – PRO

- Smaller institutions have higher costs for obtaining PPE, this would benefit the rural clinics and critical access hospitals in our region.
- **Update:** Passed the Senate 49- 0.

#### HB 1197 – PA Participation in Health Care Informed Consent – PRO

- Allows a patient, while competent, to designate a health care proxy by informing physicians, NPs, or PAs, who would then be required to sign and enter the information into the patient's health record.

- Allows patients plan for emergencies, and allows PAs to record this information, making it easier on patients whose primary care provider is a PA.
- **Update:** The bill passed 92-6 with several amendments. One amendment providing civil immunity to health care providers for claims resulting from a designation or revocation of a health care surrogate was rejected due to a drafting error but may be accepted as the bill advances to the Senate. Some of the changes that were accepted do the following:
  - Establishes a presumption that a patient has the capacity to designate a health care surrogate provided that the patient has not been determined incapacitated under the Durable Power of Attorney Act nor is not subject to a guardianship that includes health care decision-making.
  - Allows a health care provider to overcome the presumption by reasonably determining that the patient has demonstrated an inability to understand and appreciate the nature and consequences of designating an individual to make health care decisions on the patient's behalf.
  - Modifies the revocation of a designation by allowing a patient to revoke either by verbally informing or providing a written statement to an attending physician, instead of allowing a patient to revoke by personally informing any person providing care to the patient.

#### SB 5246 – Increased Medicaid Reimbursement – PRO

- Improves reimbursement for services rendered by all medical providers, including PAs and NPs for persons, who are covered by Medicaid.
- **Update:** The bill failed to pass the March 2<sup>nd</sup> fiscal cutoff deadline and is now dead. WAPA signed onto a letter of support sent to Speaker Jinkins and Rep. Cody asking for funding to be included in the biennial budget which is currently being developed. As a reminder, this rate increase was included in the budget last session (with WAPA's support) but was vetoed due to COVID-19 related budget constraints. The operating budget request is for a restoration of that rate increase. Note: SB 5246 was introduced to raise awareness for the need for the rate increase, but it was not anticipated that the bill would pass.

#### HB 1141 – PA Participation in Death with Dignity – PRO

- Current law allows only physicians to assist patients with end-of-life decisions. This bill allows PAs and NPs to perform the duties of an attending or consulting medical provider.
- In many rural settings, PAs and NPs are the sole Primary Care Provider for patients who have no or few physicians available for consultation. PAs and NPs in these roles know the patients much more intimately than their physician colleagues.
- **Update:** The bill passed the House 60- 37, with 1 excused. WAPA engaged on this bill to ensure PAs and NPs were added to the list of providers that could participate in this practice area, if they want to. While the bill was being caucused on before it came to the floor, Rep. Rude considered removing PAs and NPs from the bill to gain a couple Republican votes on the bill. WAPA responded to questions about the desire to be included in the bill. The bill continues to include PAs and WAPA is considering providing written or oral testimony when the bill is heard in the Senate.
- An amendment was added that requires that the qualified patient choose an attending qualified medical provider and a consulting qualified medical provider who do not have a supervisory relationship with each other. Although section 17.1 (d) states only willing health care providers shall participate, this amendment further removes the possibility of coercion.

SB 5149 – Funding Foundational Public Health Services – PRO -

- Helps build infrastructure and capacity for foundational public health systems, which have been underfunded in recent years, and have lacked the resources to respond to the pandemic.
- **Update:** The bill was referred to the Ways & Means Committee but did not advance before the fiscal cutoff deadline on 2/22. The bill can remain under consideration if it is designated as “necessary to implement the budget” and therefore eligible for consideration despite meeting cutoff deadlines. This bill may be part of final budget negotiations given the interest in providing additional funding for public health this session.

5068 - Extending Coverage During the Postpartum Period – PRO

- Creates one year of postpartum coverage through Apple Health, improving patient care.
- **Update:** Passed the Senate 46- 0, with 3 excused.

5140 Protecting Pregnancy and Miscarriage-related Patient Care – PRO

- Prohibits health care entities from restricting health care providers from providing services related to pregnancy complications that meet the standards of care.
- **Update:** Passed off the floor pretty early, on 2/17, before floor action began. The bill passed 29-20. This was a controversial floor debate and the bill passed on mostly party lines.

SCR 8402 – Extension of Executive Orders (including Delegation Agreement Suspension) – PRO

- This will reduce red tape and administrative burdens to allow improved access to care, especially for rural communities.
- **Update:** This SCR passed the Legislature on January 18<sup>th</sup>.

HB 1129 – Limited licensure of International Medical Graduates – CONCERNS

- Creates a limited license for international medical graduates to gain clinical experience in Washington State so they can increase their likelihood of securing a residency.
- We have concerns about what will happen to limited license IMGs who are unable to secure a residency after their limited license expires.
- **Update:** Passed 94-4. The bill has broad support and is being deemed part of the racial equity legislation that the Legislature is focused on this session. WSMA is monitoring but not engaging on the bill at this point. WAPA is monitoring the bill at this time.

SB 5229 – Health Equity Continuing Education – NEUTRAL

- Directs the boards and commissions of all health professions to adopt rules establishing a health equity CME requirement. This will help provide health care professionals with tools to care for patients of diverse identities and backgrounds and to be knowledgeable about issues such as cultural sensitivities, patterns of disparities, and implicit bias, all of which can impact patient care and health outcomes.
- We would like to ensure that adequate employer sponsored health equity training can satisfy the training requirement.
- **Update:** Passed 35-14. WAPA will need to engage with the WMC during rulemaking to ask that employer sponsored health equity training can satisfy the training requirement.
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SB 5370 – Mental Health Advanced Directives – PRO

- This bill makes changes to the mental health advanced directives statute.

- NPs and PAs were removed from an early iteration of the bill but have been reintroduced. WAPA supports the inclusion of PAs in the final version of the bill.
- **Update:** The bill remains in the Rules Committee and will need to be pulled from Rules and pass off the floor by March 9<sup>th</sup> to remain under consideration.