



## This Week in Olympia

### 2016 Legislative Recap



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## 2016 Passed Legislation



### 2016 Passed Legislation by Topic

Click on links below to navigate directly to 2016 Passed Legislation in the topic area of your choice.

[Rates, Budget, Finance](#) [Clinical/Health Care](#) [Regulation](#) [Housing](#) [Workforce/Labor](#) [Other](#)

### **Rates, Budget, & Finance:**

#### **2376 Supplemental Operating Budget**

Department of Social and Health Services (DSHS) Long-Term Care appropriations received a net increase of \$21.2 million over the original 2015-17 Operating budget. This includes the addition of \$50.7 million and reductions of (\$29.5) million (total funds).

**Summary of the final Long-Term Care budget (total funds):**

- The maintenance level budget is reduced by nearly \$30 million primarily due to a reduction of about 300 Medicaid clients from the nursing home forecasted caseload.
- No license fee increases for nursing homes or assisted living were included.
- Includes a proviso for a comprehensive review on the costs associated with Medicaid clients served in assisted living and adult family homes by acuity level.
- The five highest assessment scores in the nursing home Medicaid payment acuity penalty are exempted.
- Nursing Home rates are funded with the stakeholder workgroup recommendations found in SHB 2678 and the acuity exemption. The statewide weighted rate of \$214.03 is in the budget and it assumes a rebase using 2014 costs and March 2016 case mix.
- \$37,000 is provided to support DSHS in establishing a registration process for Continuing Care Retirement Communities per SHB 2726. The program will be supported by CCRC registration fees upon implementation.
- \$1 million is provided for DSHS to contract with a nursing home facility with an enhanced staffing model to care for patients coming out of Western State Hospital ([see ESSB 6656 for more details](#)).
- \$ 49 million is provided to pay for Individual Provider homecare worker overtime in accordance with a lawsuit that ruled Fair Labor Standards Act provisions apply to these third party workers. The funded level includes 18 new staff positions at DSHS to manage overtime, technology changes to ProviderOne and the Comprehensive Assessment Reporting Evaluation (CARE) system, and time-and-a-half compensation for allowable overtime based on a methodology established in 2SHB 1725.

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**The Health Care Authority received the following supplemental appropriations:**

- \$147.5 million is authorized for the state to implement the 1115 transformation demonstration waiver should it be approved by the Center for Medicare and Medicaid Services. The waiver would be funded with 100% federal funds this biennium. The waiver proposal currently includes supported housing programs, accountable communities of health, tailored supports for older adults who are at risk of becoming Medicaid eligible, and Medicaid Alternative Care (participant directed budget).
- \$2.2 million is provided to increase rates paid to home health and private duty nursing.
- \$8 million is provided to continue existing health home services and expand this program into King and Snohomish counties. Clients include dually eligible Medicare/Medicaid.
- \$61 million is restored to the Health Care Authority for projected savings it did not achieve through previous Healthier Washington initiatives and a denied waiver request submitted to the federal government that was intended to reduce state expenditures through implementation of innovative payment methods.

**The Department of Commerce received the following supplemental appropriations:**

- \$6.6 million is provided in additional funds for consolidated homeless grants.
- \$210,000 is provided to create an Office of the Developmental Disabilities Ombudsman.
- \$50,000 is provided for a study on the retirement preparedness of Washington residents based on region, age, race, type of employment, and income.

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**2380 Capital Budget**

2016 Supplemental provisions are as follows:

- \$11.4 million for local community projects- grant funds available through Department of Commerce for projects sponsored by local governments and nonprofit organizations.
  - \$2.25 million for supportive housing and emergency shelters in North Spokane, Kirkland, and Bellevue.
  - \$6 million for construction or renovation of health home projects in Bellingham, Everett, southwest Washington, and eastern Washington to serve people with severe health, mental health, and housing challenges.
  - \$1.5 million for a health home in Pierce County (contingent upon the adoption of a one-tenth of one percent sales tax for chemical dependency or mental health treatment).
  - \$7.9 million for institution-based mental health facilities
  - \$7.6 million for grant awards through Department of Commerce for the development of community facilities that provide a diversion for or transition of patients from the state psychiatric hospitals.
  - \$5 million for competitive grants for construction and equipment costs associated with establishing behavioral health beds.
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## **2678 Nursing Home Payment Methodology Bill**

**LeadingAge Washington Priority Legislation** which modifies the laws enacted by the 2015 Legislature to convert Medicaid payments from a cost-based payment system to a price-based payment system according to stakeholder recommendations. We strongly supported this bill.

### **Key Components:**

- Allows the rates to grow should additional funds become available
- Includes an adjustment in direct care based on a county wage index
- Establishes a fair rental value capital system that is resident centered. It sets a standard square footage per resident bed and does a good job incentivizing nursing homes to invest in their physical plant.
- Incentivizes improvements in quality with payment enhancements for meeting quality measures.
- Establishes exceptions to the mandatory staffing requirements of 24/7 shift-to-shift RN coverage for facilities with more than 60 beds, and the 3.4 hours per patient day direct care to resident staffing ratios.

For more information, please visit [this 2016 issue brief](#).

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## **Clinical/Health Care**

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### **2350 Defining the Administration of Medication by Medical Assistants**

Specifies that a medical assistant's ability to "administer" medication means both the retrieval and application of medication.

### **6327 Providing for hospital discharge planning with lay caregivers**

- "Aftercare" is defined as assistance provided by a "lay caregiver" after discharge from the hospital. Aftercare does not include assistance related to conditions unrelated to the treatment a patient received from the hospital or tasks that require a licensed health care provider.
- A "Lay Caregiver" is defined as a person assigned by the patient to provide aftercare to them in their home. It does not include long-term care workers.
- Hospital discharge policies and criteria must provide an opportunity for patients to designate a lay caregiver, and if designated, the lay caregiver must be given an opportunity to participate in discharge planning.

### **2458 Concerning Participation in the Prescription Drug Donation Program**

- Allows individuals to donate unused prescription drugs that meet certain quality standards to a pharmacy for redistribution at no cost.
  - Priority for donations will go to the uninsured or people who are insured but their insurance does not include coverage for the drug that was prescribed.
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**2726 Concerning the regulation of Continuing Care Retirement Communities (CCRC)**

**LeadingAge Washington Priority Legislation** which is intended to facilitate transparency for consumers of CCRCs and to crystalize standard best practices on disclosures. We supported this legislation after some significant initial concerns were addressed.

- Beginning July 1, 2017, CCRCs will be required to register with the Department of Social and Health Services. Thereafter, registration will be required every two years.
  - Requires a CCRC to provide prospective residents with a disclosure statement containing audited financial statements, level of care determinations, descriptions of services and fees and how fee increases are determined, and other information generally describing the CCRC and its operations.
  - Establishes resident expectations and requires that copies be publicly available.
  - Establishes that a pattern of noncompliance with resident expectations or disclosure of required information are a violation of the Consumer Protection Act.
  - The program will be supported by CCRC registration fees upon implementation.
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**6156 Reauthorizing the Medicaid Fraud False Claims Act**

Extends the qui tam provisions of the Medicaid Fraud False Claims Act (MFFCA) from a sunset date of June 30, 2016 to June 30, 2023. Private parties, called qui tam relators, are allowed to bring a civil action in the name of the state for violations of the MFFCA.

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**6203 Regarding the Practice of Long Term Care Pharmacy**

**LeadingAge Washington Priority Legislation** which ensures timely access to critically-necessary medications for residents in nursing homes. We strongly supported this legislation.

- Authorizes licensed nurses, pharmacists, or physicians practicing in a long-term care facility or hospice program to act as a practitioner's agent in documenting a chart order on behalf of the prescribing practitioner, and when communicating a prescription to the pharmacy.
- Allows a pharmacist to provide an emergency kit or supplemental dose kit to a nursing home or hospice program under certain conditions.
- Authorizes a pharmacy to dispense prescription drugs to the resident on the basis of a written or electronic prescription or chart order.
- Allows a pharmacy to outsource services for long-term facility or hospice program if approved by the long-term facility or hospice program.

For more information, please visit [this issue brief](#).

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**6238 Allowing the prescription of a schedule II controlled substance to treat certain diseases states and conditions**

Schedule II amphetamines or non-narcotic stimulants may be prescribed for any disease state or condition for which the United States Federal Drug Administration (FDA) has approved an indication.

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**6569 Creating a task force on patient out-of-pocket costs**

- A task force is convened beginning July 1, 2016 by the Department of Health to evaluate contributing factors to high out-of-pocket prescription costs.
  - The Task Force must consider patient treatment adherence and the impacts of chronic illness and acute disease.
  - Impacts when patients cannot maintain access to their prescription drugs will also be reviewed and potentially related adverse health impacts such as more expensive medical interventions, hospitalizations, and workforce impacts/loss of productivity.
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## Regulation

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### [2335](#) **Addressing Health Care Provider Credentialing**

Health care provider credentialing is standardized.

- Health care providers must submit credentialing applications into a single credentialing database and health carriers are required to accept and manage credentialing applications from the database
- Health carriers have up to 90 days to approve or deny the provider's credentialing application.
- By 2020 the average response time for approving or denying of provider's credentialing application must not exceed 60 days.

### [2326](#) **Transferring Regulatory Authority Over Independent Review Organizations to the Insurance Commissioner**

- A health plan enrollee may seek review by a certified independent review organization (IRO) of a carrier's determination to deny, modify, reduce, or terminate coverage, or payment. Regulatory authority is transferred for IROs from the Department of Health to the Office of the Insurance Commissioner.
- IROs will now report decisions directly to the Insurance Commissioner.

### [2332](#) **Removing an Expiration Date Concerning the Filing and Public Disclosure of Health Care Provider Compensation**

Beginning July 28, 2013, all health care carriers were required to file all provider contracts and provider compensation agreements with the Office of the Insurance Commissioner (OIC) 30 days before use. A temporary provision allowed provider compensation agreements to be confidential and not subject to public inspection and copying if filed through the system under the Commissioner's general filing instructions. The July 1, 2017 expiration date on this provision was removed from law.

### [6656](#) **State Hospital Reform**

- Establishes the Select Committee on Quality Improvement in State Hospitals, to conduct additional oversight and monitoring of the State Hospitals.
- Requires DSHS to identify and discharge enough patients with long-term care needs from Western State Hospital to alternative placements to reduce the need for 30 beds.

## Housing

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### [6342](#) **Concerning private activity bond allocation.**

Re-allocates at least 10% of the student loan bond category towards housing category.

- The housing category receives 42 percent of the state ceiling allocation and the student loan category receives 5 percent. The other categories are not changed.
- If the Department does not grant any allocations for student loans by February 1, the entire allocation for that category may be reallocated to the housing category.
- Beginning June 2018, The Department's biennial reporting requirements are changed from February to June.

## Workforce/Labor

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### [1725](#) **Relating to the consumer’s right to assign hours to individual provider (IP) in-home caregivers**

- Limits working hours and overtime hours for person’s contracted with the Department of Social and Health Services (DSHS) to provide in-home personal care to Medicaid clients.
- 60 hours each week are allowed if the IP was working more than 40 hours a week during January 2016.
- 40 hours each week are allowed if the IP was working 40 hours per week during January 2016. Additional hours may be authorized:
  - For required training
  - Under criteria to be established by DSHS
- Establishes a joint Legislative-Executive Overtime Oversight task force to monitor spending and drivers of overtime costs.

## Other

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### [6398](#) **Concerning Certain Cultural Foods**

- The State Board of Health is required to consider new standards using scientific data regarding time-temperature safety standards for Asian rice-based noodles and Korean rice cakes.

**LeadingAge Washington Supported this Legislation:** Food services and the regulations thereof should be based on scientific data and food should always be allowed to be served in a culturally competent manner whenever evidence supports it is safe.

### [2847](#) **Retrofits intended to provide physical access to a structure by individuals with disabilities are exempted from the definition of “substantial development” in the Shorelines Management Act**

The Shoreline Management Act requires that property owners or developers first obtain a permit before making any “substantial development.” “Substantial development” is any project that costs \$6,416 or more, or which materially interferes with the normal public use of the water or shorelines of the state.

- Projects that are designed to provide access for individuals with disabilities are exempted from “substantial development.”

### [2877](#) **Expanding distribution dates for Supplemental Nutrition Assistance Program (SNAP) benefits**

- Beginning February 1, 2017 the Department of Social and Health Services (DSHS) must expand the date range that the SNAP benefits are distributed from the 1<sup>st</sup> – 10<sup>th</sup> of every month, to the 1<sup>st</sup> – 20<sup>th</sup> of every month.

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For information about finding and contacting your own district’s elected officials, [follow this link](#). To review legislative bill action, [follow this link](#).

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