OVERWHELMED BY THE CURRENT STATE OF HEALTH CARE?
WE HEAR YOU.

Our experienced Health Law attorneys understand the constantly evolving challenges faced by health care professionals amid the current pandemic.

With a comprehensive, proactive approach, we help clients solve problems as they arise so they can focus on what’s most important: their patients.

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Fox Rothschild LLP
ATTORNEYS AT LAW

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Legislative Summary & Policy Preview

2 Welcome Letter

5 WSHA’s 2020 Legislative Priorities
   6 WSHA’s Policy Priorities
   8 Other Important Bills
   9 WSHA’s Budget Priorities
      • Top Hospital and Health System Budget Items
      • Difficult-to-Discharge Budget Items
      • Mental Health Budget Items
      • Substance Use Disorder Budget Items
      • Other Health Care Budget Items
      • Governor-Vetoed Items

12 The Road Ahead: 2021 Policy Preview

13 Hospitals for a Healthy Future PAC

13 Thank You for Testifying in Olympia
Dear WSHA members,

On January 13, lawmakers convened in Olympia for the 2020 legislative session. Most expected this to be a “typical” 60-day session, with a modest array of policy issues and budget items. Despite this, WSHA ran one of our most proactive legislative agendas in recent memory, successfully advocating for several new issues. We also mitigated the impacts of many bills that would have harmed our members and patients. We are pleased that this session was positive overall for hospitals and health care.

While this short session may have started in a typical fashion, it certainly did not conclude quietly. As the state’s unprecedented response to the global coronavirus (COVID-19) pandemic began dominating our daily lives, the Legislature took some definitive actions before leaving Olympia.

In its final days, the Legislature quickly passed House Bill 2965, which includes $200 million in emergency state funding to help with Washington’s COVID-19 response. Of this, $25 million is for the newly created COVID-19 unemployment account to help businesses and workers disrupted by the pandemic and $175 million is for the public health response, which includes allocations to various state agencies and efforts to combat COVID-19. WSHA strongly advocated for and was successful in getting $19.5 million allocated to the Department of Social and Health Services (DSHS) to discharge patients to long-term care settings and $2 million in emergency funds for rural hospitals. WSHA continues to work with state officials to ensure that any future emergency funds be directed to rural and urban hospitals that are on the frontlines of this pandemic.

Aside from COVID-19 activities, lawmakers finished the 2020 legislative session by enacting more than 850 bills! We want to extend our sincere thanks to everyone who made phone calls, sent emails, testified in Olympia and participated in what is now our annual advocacy days at the state capitol! We cannot do our work without you. Thank you!

This year’s major highlights include funding for health care and telemedicine payment parity.

**Funding for health care.** We are pleased to report several notable successes in securing or continuing to protect funding for health care. Thanks to our advocacy, the Legislature appropriated modest funding to improve the discharge process for hospitalized patients who need post-acute care. The state will also pursue a path to hasten a patient’s enrollment in Medicaid long-term care — called presumptive eligibility.

WSHA ensured there were no payment cuts to hospitals. We continued to prevent hospitals from being subject to the business and occupation (B&O) surtax (though independent physicians and freestanding psychiatric hospitals are still not exempt). We were able to preserve substantial operating funding aimed at increasing bed capacity for patients on 90- and 180-day civil commitment orders. We secured funding to establish two pilot programs to fund partial hospitalization and intensive outpatient services for children and adolescents on Medicaid (Apple Health).
However, we are disappointed that Governor Inslee vetoed an increase to Medicaid payment rates for primary care and behavioral health primary care providers. This was among several health care items he vetoed (a complete list of vetoed items can be found later in the Legislative Summary). This is part of his attempt to help address impending state budget constraints the Legislature expects over the next few years as a result of the pandemic’s impact on business and consumer spending.

**Telemedicine payment parity.** After seven years of WSHA’s advocacy, the Legislature finally passed telemedicine payment parity legislation. Washington now joins 11 other states that require commercial health plans, Medicaid managed care plans (MCOs), public employee benefit board (PEBB) and school employee benefit board (SEBB) health plans to pay providers for telemedicine services at the same rate as in-person visits. This will go a long way to improve patient access to care across the state, and it is especially crucial during this pandemic, as e-visits and virtual visits are being used more to reduce person-to-person contact.

Looking ahead, the Legislature has not ruled out convening a special session this year if further policy or budget action is needed to address the pandemic or the resulting economic fallout. WSHA is assessing critical hospital and patient needs that may warrant policy or budget asks during a possible special session. Stay tuned for more information through the summer and fall, including how we may need your help.

In your service,

Chelene Whiteaker

*WSHA Senior Vice President, Government Affairs*
WSHA’s 2020 Legislative Priorities

In a short (60-day) legislative session when legislators usually have modest policy and budget goals, WSHA was generally successful in our policy agenda. WSHA is celebrating the following legislative wins this session.

Ensure patients have access to care during and after hospitalization.

- **Home health**: Rural health clinics can provide limited home health services in designated shortage areas. *WSHA initiated this legislation.*

- **Sexual assault kits**: Clear standards are established for the storage, retention, notice and destruction of unreported sexual assault kits. *WSHA advocated for and supported this approach.*

Ensure hospitals can be stable institutions serving their communities well into the future.

- **Substitute providers**: Commercial health plans (under certain circumstances) and MCOs are required to pay hospitals and rural providers for services provided throughout the credentialing process. Substitute providers can now qualify for MCO payments when hospitals are recruiting for an open position, and certain mid-level providers can serve as substitute providers. *WSHA strongly advocated for this legislation.*

- **Telemedicine payment parity**: Commercial health plans, MCOs, and PEBB and SEBB health plans are required to pay providers for services delivered to patients through telemedicine at the same rate as if the services were delivered in-person. Services provided with store-and-forward (asynchronous) technology will also be paid without requiring an in-person visit with the referring provider. *WSHA strongly advocated for this legislation.*

Maintain flexibility for hospital operations while preventing burdensome and costly new regulations.

- **Prior authorization**: Commercial health plans are required to submit prior authorization data for medical/surgical and behavioral health services, and for specific equipment and supplies. This data will be used to create prior authorization recommendations. *WSHA and the Washington State Medical Association (WSMA) initiated this legislation.*
Leading up to each legislative session, WSHA members and the government affairs team identify the state policy and budget issues that are the most important to our hospitals, patients and communities. Although unexpected issues always arise along the way (and this year was no exception), our goal is to advocate for a robust and proactive legislative agenda. We are committed to being transparent in our legislative process by publishing our agenda and providing regular updates in Inside Olympia, which are both available on the WSHA website.

The following reflects both our policy agenda and other critical issues that emerged during the 2020 legislative session.

### WSHA Goal: Ensure patients have access to care during and after hospitalization.

<table>
<thead>
<tr>
<th>BILL #</th>
<th>BILL DESCRIPTION</th>
<th>WSHA POSITION AND LEGISLATIVE OUTCOME</th>
<th>OVERALL FAVORABILITY FOR WSHA</th>
</tr>
</thead>
<tbody>
<tr>
<td>HB 2318</td>
<td>Advancing criminal investigatory practices. Optimizes the storage and handling of evidence gathered during a sexual assault examination.</td>
<td>Supported and passed</td>
<td>✔</td>
</tr>
<tr>
<td>SB 6275</td>
<td>Increasing patient access rights to timely and appropriate post-acute care. Improves and expedites hospital discharge for Medicaid patients needing post-acute care.</td>
<td>Supported (WSHA initiated bill) and not passed (but there is $2.4 million in the budget to implement parts of the bill)</td>
<td>☠</td>
</tr>
<tr>
<td>SB 6359</td>
<td>Creating regulation exemptions for rural health clinics (RHCs) providing services in a designated home health shortage area. Allows RHCs to offer limited services, including home nursing visits to homebound patients.</td>
<td>Supported (WSHA initiated bill) and passed</td>
<td>✔</td>
</tr>
</tbody>
</table>

### WSHA Goal: Ensure hospitals can be stable institutions serving their communities well into the future.

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<tr>
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<th>WSHA POSITION AND LEGISLATIVE OUTCOME</th>
<th>OVERALL FAVORABILITY FOR WSHA</th>
</tr>
</thead>
<tbody>
<tr>
<td>HB 1552</td>
<td>Concerning health care provider credentialing by health carriers. Changes requirements for MCOs to ensure hospitals and rural providers can get reimbursed for services provided by substitute providers. Requires commercial plans to reimburse hospitals and providers for services provided throughout the credentialing process under certain circumstances.</td>
<td>Strongly supported and passed</td>
<td>✔</td>
</tr>
<tr>
<td>HB 1965</td>
<td>Allowing whistleblowers to bring actions on behalf of the state (qui tam) for workplace protection violations.</td>
<td>Opposed and not passed</td>
<td>✔</td>
</tr>
<tr>
<td>HB 2426</td>
<td>Protecting patient safety in psychiatric hospitals and other health care facilities. Creates new and considerable oversight by the Department of Health (DOH) of psychiatric hospitals.</td>
<td>Negotiated to neutral and passed</td>
<td>NEUTRAL</td>
</tr>
</tbody>
</table>
### WSHA’s 2020 Legislative Priorities

#### SB 5385
**Concerning telemedicine payment parity.** Allows telemedicine services provided by hospitals and providers to be paid at the same rate as in-person services.

**WSHA Position and Legislative Outcome:** Strongly supported and passed

### SB 5720
**Concerning the Involuntary Treatment Act (ITA).** Modifies the adult ITA and the similar statute for children, including increasing the initial detention period to five days.

**WSHA Position and Legislative Outcome:** Negotiated to neutral and passed

### WSHA Goal: Maintain flexibility for hospital operations while preventing burdensome and costly new regulations.

#### HB 1608
**Protecting patient care.** Provides patients with information about treatment options.

**WSHA Position and Legislative Outcome:** Negotiated to support and passed

#### HB 2036
**Concerning health system transparency.** Imposes burdensome and excessive reporting requirements on hospitals and surgical facilities.

**WSHA Position and Legislative Outcome:** Opposed, negotiated a narrower scope and did not pass

#### HB 2457
**Cost transparency board.** Creates a state board to establish state health care cost growth benchmarks.

**WSHA Position and Legislative Outcome:** Negotiated key provisions to neutral and passed

#### SB 6209
**Joining the nurse licensure compact.** Allows nurses to have multistate licensure privileges.

**WSHA Position and Legislative Outcome:** Supported and not passed

#### SB 6281
**Concerning the management and oversight of personal data.** Creates a general data privacy framework in Washington.

**WSHA Position and Legislative Outcome:** Negotiated to support and not passed

#### SB 6404
**Adopting prior authorization and appropriate use criteria in patient care.** Requires commercial health plans to submit prior authorization data to create recommendations on the uniform use of prior authorization.

**WSHA Position and Legislative Outcome:** Supported (WSHA and WSMA initiated bill) and passed
### OTHER IMPORTANT BILLS

WSHA’s government affairs team tracked numerous bills to ensure that any new legislation supports patient access to high-quality care. The following are other bills that emerged during session that we worked on with our members and partners.

<table>
<thead>
<tr>
<th>BILL #</th>
<th>BILL DESCRIPTION</th>
<th>WSHA POSITION AND LEGISLATIVE OUTCOME</th>
<th>OVERALL FAVORABILITY FOR WSHA</th>
</tr>
</thead>
<tbody>
<tr>
<td>HB 1590</td>
<td>Allowing the local sales and use tax for affordable housing to be imposed by a councilmanic authority.</td>
<td>Supported and passed</td>
<td>✔️</td>
</tr>
<tr>
<td>HB 1826</td>
<td>Concerning the disclosure of certain information during the discharge planning process.</td>
<td>Neutral and not passed</td>
<td>NEUTRAL</td>
</tr>
<tr>
<td>HB 2099</td>
<td>Allow video for Involuntary Treatment Act evaluations.</td>
<td>Supported and passed</td>
<td>✔️</td>
</tr>
<tr>
<td>HB 2326</td>
<td>Reporting end-of-life policies.</td>
<td>Supported and not passed</td>
<td>✗</td>
</tr>
<tr>
<td>HB 2363</td>
<td>Property rights over biometric data.</td>
<td>Unsupported and not passed</td>
<td></td>
</tr>
<tr>
<td>HB 2364</td>
<td>Charter of personal data rights.</td>
<td>Unsupported and not passed</td>
<td></td>
</tr>
<tr>
<td>HB 2378</td>
<td>Concerning physician assistants.</td>
<td>Neutral and passed</td>
<td>NEUTRAL</td>
</tr>
<tr>
<td>HB 2380</td>
<td>Concerning industrial insurance employer penalties, duties and the licensing of third-party administrators.</td>
<td>Neutral and passed</td>
<td>NEUTRAL</td>
</tr>
<tr>
<td>HB 2416</td>
<td>Concerning disclosures of information and records related to forensic mental health services.</td>
<td>Supported and passed</td>
<td>✔️</td>
</tr>
<tr>
<td>HB 2448</td>
<td>Concerning enhanced services facilities.</td>
<td>Supported and passed</td>
<td>✔️</td>
</tr>
<tr>
<td>HB 2462</td>
<td>Recognizing the emergency medical services personnel licensure interstate compact.</td>
<td>Supported and not passed</td>
<td>✗</td>
</tr>
<tr>
<td>HB 2737</td>
<td>Updating the children’s mental health work group.</td>
<td>Supported and passed</td>
<td>✔️</td>
</tr>
<tr>
<td>HB 2883</td>
<td>Expanding adolescent behavioral health care access.</td>
<td>Supported and passed</td>
<td>✔️</td>
</tr>
<tr>
<td>SB 6040</td>
<td>Concerning the budgeting process for certain state waiver services for individuals with developmental disabilities.</td>
<td>Supported and passed</td>
<td>✔️</td>
</tr>
<tr>
<td>SB 6058</td>
<td>Concerning fire district health clinic services.</td>
<td>Amended to neutral and passed</td>
<td>NEUTRAL</td>
</tr>
<tr>
<td>SB 6061</td>
<td>Requiring training standards in providing telemedicine services.</td>
<td>Neutral and passed</td>
<td>NEUTRAL</td>
</tr>
<tr>
<td>SB 6440</td>
<td>Concerning industrial insurance medical examinations.</td>
<td>Neutral and passed</td>
<td>NEUTRAL</td>
</tr>
<tr>
<td>SB 6591</td>
<td>Establishing a work group to address mental health advance directives.</td>
<td>Unsupported and not passed</td>
<td>✗</td>
</tr>
</tbody>
</table>
WSHA’s 2020 Budget Priorities

Below are several items that were important to WSHA during this supplemental budget year.

**Top hospital and health system budget Items**
*(in general order of priority)*

- **Continue to protect the hospital exemption to the B&O surtax.** This continues to save hospitals statewide about $78 million each biennium (or $39 million each year). Unfortunately, freestanding psychiatric hospitals and physician provider groups continue to be subject to this new surtax that was enacted in last year’s budget.

- **Improve the process for hospitalized patients who need post-acute care.** $2.4 million state funds ($4.8 million total funds).

- **Support hospitals responding to the COVID-19 pandemic.** $200 million state funds to support the state’s response to the COVID-19 pandemic. Of these funds, $19.5 million has been allocated to DSHS to move patients to long-term care placements and $2 million is for rural hospitals.

- **Establish two pilots for partial hospitalization and intensive outpatient programs for children and adolescents enrolled in Medicaid.** $1.8 million state funds.

- **Increase nursing home rates.** $18.8 million state funds ($37.6 million total) to cover expected nursing home costs and a three-year inflationary rate increase.

- **Nursing home rates for public hospital districts.** $1 million total funds to supplement payments to nursing homes operated by public hospital districts.

- **Increase home health rates.** $770,000 state funds ($1.6 million total) to increase home health rates (in three annual and equal increments), beginning January 1, 2021, to reach 75% of Medicare costs. Rates are for physical, occupational and speech therapy, and for skilled nursing and home health aides.

- **Increase health homes rates (for dully eligible Medicare-Medicaid enrollees).** $1.4 million state funds ($2.8 million total) to increase health home rates for Health Home Lead and Care Coordination Organizations serving dual-eligible enrollees.
- Increase Area Agency on Aging case managers. $1.3 million state funds ($2.9 million total).
- Develop an emergency room crisis plan for developmentally disabled patients. $150,000 state funds.
- Add a patient transition coordinator. $187,000 state funds to add one coordinator for patients who are hospitalized and will need post-discharge services.
- Increase developmental disabilities administration capacity. $1.1 million state funds ($2 million total) to increase services for 300 individuals through the Basic Plus and Individual and Family Services waivers and to update non-paid services caseload counts.

**Mental health budget items**
- Support an Institute for Mental Disease (IMD) waiver submittal. $540,000 state funds ($1.8 million total) to submit an IMD waiver to CMS to allow longer stays at IMD facilities to be reimbursed by Medicaid.
- Support changes to the ITA. $864,000 state funds ($2.7 million total) to implement Senate Bill 5720, which modifies the ITA.
- Provide reserve funding for behavioral health – administrative service organizations. $2.5 million state funds to support the three regions that will provide crisis services as it transitions to integrated managed care.
- Increase recruitment and crisis training at Western State Hospital. $2.8 million state funds.
- Promote behavioral health workforce development strategies. $50,000 state funds ($327,000 total).

**Substance use disorder budget items**
- Continue to support the prescription drug monitoring program. $48,000 other funds.
- Continue to modernize the substance use disorder professional practice. $14,000 state funds ($908,000 total) to implement House Bill 1768.
- Support the Secure Drug Takeback program. $1 million other funds.
- Add chemical dependency beds. $2.2 million state funds to add 34 residential chemical dependency beds.

**Other health care budget items**
- Foundational Public Health Services. $6 million state funds.
- Increase the enhanced community residential services rate. $2.9 million state funds ($5.8 million total) for developmental disability community residential service providers.
- Increase the adult day health and adult day care rate. $262,000 state funds ($528,000 total) to increase the rate by 6%.
- Funding for RHC reconciliation. $34.1 million state funds ($40 million total) for reconciliation for 2014–2017.
- Increase state-operated living alternative capacity. $1.2 million state funds ($2.3 million total).
- Conduct spinal muscular atrophy screening in newborns. $6,000 state funds ($366,000 total) to add this new screening.
- Continue the Partnership Access Line (PAL) program. $510,000 state funds ($586,000 total).
- Support telemedicine training for certain school staff. $60,000 state funds to implement Senate Bill 6061.
- Support the administration and procurement of the state’s public option health plans. $558,000 state funds.
- Medicaid Quality Improvement Program (MQIP). $36.5 million local funds and $89.4 million federal funds ($126 million total) for payments to MCOs and partnering providers to reinforce quality and support community health.
- Health care employee investigations. $439,000 other funds to implement last year’s House Bill 1155, requiring uninterrupted meal and rest breaks. Funds are for legal services and complaint investigations.
- Increase training for sexual assault nurse examiners. $300,000 state funds.
- Support storage and preservation of sexual assault kits. $50,000 state funds to implement House Bill 2318, which includes storing kits by local law enforcement, not hospitals.
- Support tobacco and vape product cessation services for youth. $1 million state funds.
Governor-Vetoed Items

The state’s constitution authorizes the governor to partially or fully veto bills passed by the Legislature within a certain amount of time. Each year, the governor usually exercises this power to some extent — and this year was no exception.

In early April, Governor Inslee took this action to conserve state financial and staff resources in light of the COVID-19 pandemic and the anticipated economic impact on the state budget. WSHA is reviewing these vetoed items to determine if further advocacy is needed in subsequent legislative sessions to rectify the situation.

Health care items WSHA supported, the Legislature passed, but the governor ultimately vetoed include:

- **Increase the dementia care rate.** $1.4 million state funds ($3 million total) to increase the rate paid to specialty dementia care providers by $10 per day, per client.

- **Increase the behavioral health primary care provider Medicaid rate.** $1.9 million state funds ($5 million total) to increase the rate by 15%.

- **Increase the Medicaid primary care provider rate.** $9.9 million state funds ($29 million total) to increase the rate by 15%.

- **Expand ambulance costs covered by Medicaid for secure detox patients.** $846,000 state funds to pay for ambulance downtime when patients detained under Ricky’s Law are being transported to a secure withdrawal facility.

- **Establish a prescription drug affordability board.** $525,000 state funds. The governor also vetoed Senate Bill 6088, related to this budget item.

- **Expand post-partum coverage.** $567,000 state funds to establish the framework for expanding post-partum coverage to low-income women for 12 months once a federal waiver is attained. The governor also vetoed Senate Bill 6128, related to this budget item.

- **Study the barriers to using Washington’s Death with Dignity Act.** $66,000 state funds only. The governor also vetoed House Bill 2419, related to this budget item.
The Road Ahead: 2021 Policy Preview

As we look ahead to 2021, we hope the COVID-19 pandemic will be mostly behind us and that Washington hospitals, patients and communities will be well on the path of “normal.” The financial impact of this once-in-a-generation crisis will have an untold effect on our state’s health care delivery system. WSHA will continue to work with our members to not only carry the message of the financial impact on hospitals to our state and federal lawmakers, but also the policy changes needed to strengthen patient access to care.

When we start the 2021 legislative session, there will be several new faces in the House and Senate. All the House seats and half the Senate seats are up for re-election in November. As of mid-May, 18 lawmakers have announced that they are not seeking re-election. While the faces in Olympia will change, the need for our collective advocacy will not. Recovering from the COVID-19 response and addressing the other outstanding issues will remain priorities. This includes funding for behavioral health and difficult-to-discharge patients and improving access to affordable care. We look forward to another year of advocating for you and doing everything we can to improve the health of our patients and communities.

2021 Hospital Advocacy Days: Save the Dates!

Be sure to join us in Olympia on February 9 and 10, 2021, for WSHA’s third annual Hospital Advocacy Days! This is an important opportunity for our hospital leadership, board members and clinicians to “stand up and stand together” on the issues we are advocating for in Olympia. Taking time to meet with your legislators in-person is one of the best ways to tell your hospital and patient story. This includes your plans for growth, your successes and your challenges. We cannot do our work without your voice! More information will be provided later in the year.
Advocacy Involves Relationships, Input and Political Action Committees

Our state political action committee has a new name: Hospitals for a Healthy Future PAC (formally known as the Washington Hospital Political Action Committee)! Along with the American Hospital Association Political Action Committee, they help us build relationships and unify our political voices with state and federal lawmakers.

While the name of our state political action committee has changed, its goal has not! It helps Washington hospital and health system leaders elect health care champions and engage with elected officials on the issues that are important to us. Hospitals and health systems and the patients we serve have a lot at stake in the political process. This includes issues related to access to care, impacts of regulation, payment rates, health quality reporting, patient safety, health equity and much more. Your financial support helps us cultivate and elect lawmakers who are health care champions and keep hospital and patient issues at the forefront of the political debate in Olympia and Washington, D.C.

The 2020 Hospitals for a Healthy Future Campaign

In 2019, our ambitious campaign raised $262,000 toward our $370,000 fundraising goal. In 2020, we are striving to raise $435,000 as we march toward our goal of raising $500,000 in 2021! Washington hospitals and health systems cannot be left behind as other interest groups out-raise us by significant margins. We need everyone’s help getting to our goal and maintaining our political influence! Consider donating today.

To make your online donation to the Hospitals for a Healthy Future campaign or for more information about last year’s efforts and how funds are spent, visit www.wshaweb.com/hhfpac. Password: HHFPAC.