

Lobbyist Report

Month April 2021



Meetings/Workgroups attended

April 15: O2G, Wednesday Night Study Group, Connect Washington

April 22: O2G, Wednesday Night Study Group, Connect Washington

Legislative Summary for Mental Health Specifically (To Send to Members)

2021 was a very busy year for behavioral health and although the virtual session made normal session proceedings difficult, many behavioral health bills passed and more were introduced which will be taken up immediately in the 2022 session. (You'll find a list of priority bills and summaries below.) When a bill is introduced, but not passed, it remains "alive" for the following session. This speeds up the process of identifying which bills will have a jump start for next year.

During this past year of global health crises and economic pressure, we have seen a growing awareness of the importance of mental health. For many, the pressures of COVID-19 and its financial fallout have exacerbated day-to-day pressures. For some, this time has led them to seek out mental health resources for the first time.

Funding sources are always the major obstacle when it comes to all budget related issues, but this year the Legislature focused on bookmarking money in the budget to pay for health care services. The final budget adopted by legislators includes \$124 million for Medicaid reimbursement increases and effective Oct. 1, this includes a 15% increases for behavioral health services. Medicaid rate adjustments will improve access to care for Washingtonians by expanding provider participation in Medicaid networks.

The "Blake decision bill" (see details below) included alternatives to incarceration by offering treatment alternatives for those charged with small drug possessions. We will most likely see future debate regarding how to fund/expand behavioral health treatment centers - at it currently stands, there are simply not enough facilities to accommodate everyone seeking treatment.

WMHCA showed strong support on the identified key issues set by the Board of Directors and during our "Day on the Hill" we spoke with many legislators to share with them our input and concerns regarding proposed legislation. During the interim, we will have meetings (in person and virtual) with lawmakers to further these discussions and to propose legislation of our own. 2021 will be the first year WHMCA will take the lead on a couple of bills and I look forward to working with all of you on our identified issues.

In summary, this year was a success for behavioral health in many areas and I invite you to read through the specific pieces of legislation that we covered and engaged with.

Meetings Requested

No meetings at this time - the last portion of session time is limited for all legislators as they are consumed with floor action.

General Legislative News

Sunday April 25 was the final day of the regular legislative session in Olympia. The House and Senate adjourned *sine die* in the evening. During the last three days, and after about two months of negotiations, the final versions of the state budgets have been released, finalized, and adopted.

Major pieces of legislation adopted by the Legislature and sent to the Governor included a capital gains tax that would apply to about one percent of Washington taxpayers, several bills related to changes in policies for law enforcement, a new state holiday, and numerous bills related to COVID-19 business impacts.

A data privacy bill was among the most significant pieces of legislation to not move forward this session. Disagreements between House and Senate Democrats lead to a dead bill on that issue. A transportation-related fee and gas tax increase measure to fund enhanced maintenance and upkeep of state roadways, and many new projects around the state did not advance this session — but it will likely be up for consideration later this year in a special session, or during the 2022 regular session.

Final Budgets:

Operating Budget – [SB 5092](#)

Capital Budget – [HB 1080](#)

Transportation Budget – [SB 5165](#)

Looking back - session recap

The virtual session was a once-in-a lifetime (we hope) change in the way the legislature conducts business and the public's access. While it was surprising how many bills the legislature considered and voted on given the COVID pandemic, the overall number of bills passed this session was significantly less than during the last several sessions. On several issues, the significance and impact of bills passed this year is remarkable considering the nature of the largely 'virtual' legislative session.

The majority Democratic caucuses did not allow the virtual nature of this legislative session, nor the pandemic, to hinder priorities of police reform, climate change policy, housing policy, and tax reform. While the minority Republican caucuses attempted to mitigate what they felt was a broad overreach of the legislative session during a pandemic — as well as a legislative branch check on Governor Inslee's emergency powers, and executive branch agency overreach — the political ramifications of this session will live for years to come, both in Olympia and at the ballot boxes across the state, especially with regard to changing nature of rural western Washington counties voting for Republican candidates, and ousting sitting Democrats.

What's on the Horizon?

Post-session we go through what is referred to as a "cooling off" period. We can use the next month or so to start discussing our interim plan and meetings/conversations will begin taking place in June/July. I would like to begin planning bill proposals for the 2022 session. I feel like WHMCA

2021 Legislative Session Detailed Bill Report

HB 1063 - Allowing additional renewals for behavioral health professional trainee and associate credentials.

Sponsors: [Harris](#), [Cody](#), [Bateman](#), [Kloba](#), [Ortiz-Self](#), [Leavitt](#), [Slatter](#), [Tharinger](#), [Callan](#), [Riccelli](#), [Macri](#), [Rule](#), [Davis](#), [Pollet](#)

Brief Summary of Bill

- Allows the Department of Health to renew associate licenses or trainee certifications for certain behavioral health professionals in training additional times, due to barriers to testing or training resulting from a Governor-declared emergency.

Prior to the passing of HB 1063, a certified substance use disorder professional trainee can provide substance use disorder assessments, counseling, and case management with a state regulated agency as approved by their supervisor and the certification may only be renewed four times.

HB1063 allows the secretary to issue a waiver to allow additional renewals due to barriers to testing or training resulting from a governor-declared emergency. Also, currently, associate licenses can be renewed no more than six times; however, the HB1063 will allow the secretary to find that additional renewals are justified due to barriers to testing or training resulting from a governor-declared emergency. Changes to licensing requirements will take effect immediately.

E2SHB 1477 - Implementing the national 988 system to enhance and expand behavioral health crisis response and suicide prevention services.

Sponsors: [Orwall](#), [Davis](#), [Ortiz-Self](#), [Callan](#), [Simmons](#), [Johnson, J.](#), [Goodman](#), [Ryu](#), [Ormsby](#), [Valdez](#), [Frame](#), [Berg](#), [Bergquist](#), [Harris-Talley](#), [Chopp](#), [Macri](#), [Peterson](#), [Pollet](#)

Brief Summary of Engrossed Second Substitute Bill

- Directs the Department of Health to designate crisis hotline centers that meet standards related to technology and the ability to identify and deploy community crisis resources for persons experiencing a behavioral health crisis.
- Establishes the Crisis Response Improvement Strategy Committee to develop a comprehensive assessment of the behavioral health crisis services system and a recommended vision for an integrated crisis network throughout Washington.
- Requires that health plans and medical assistance programs provide coverage for next day appointments for enrollees experiencing urgent, symptomatic behavioral health conditions, beginning in 2023.
- Establishes the Statewide 988 Behavioral Health Crisis Response Line Tax on phone lines to fund the crisis hotline centers and response services.
- Makes several appropriations to increase capacity for the existing crisis call centers and begin implementation of the crisis call center hub system and supporting technology.

WMCHA is pleased to see E2SHB 1477 pass both chambers and head to the governor's desk for signature. The bill will redesign Washington's crisis behavioral health system - once implemented, people experiencing a mental health or substance-use-related crisis and their loved ones will call "988" instead of "911" to reach a centralized crisis center that will connect them to crisis services. The bill has been delivered to the governor for his signature.

ESHB 1196- Concerning audio-only telemedicine

Sponsors: [Riccelli](#), [Callan](#), [Bateman](#), [Ramos](#), [Cody](#), [Ortiz-Self](#), [Duerr](#), [Harris](#), [Leavitt](#), [Bergquist](#), [Shewmake](#), [Fitzgibbon](#), [Macri](#), [Tharinger](#), [Slatter](#), [Davis](#), [Berg](#), [Pollet](#), [Orwall](#), [Harris-Talley](#), [Frame](#)

Brief Summary of Substitute Bill

- Removes the age limitation on telemedicine reimbursement requirements applicable to behavioral health administrative services organizations.

ESHB 1196 (concerning audio-only telemedicine) will expand the state's definition of telemedicine to include audio-only services. It builds on Washington State's payment parity law by requiring reimbursement for audio-only services at the same amount of compensation that would have been paid if the service were provided in person. WMCHA strongly supported this bill, as it will directly impact the ability of providers to offer telemedicine services to patients, expanding health care options for Washington residents who might struggle to access in-person care. This bill has been delivered to the Governor for his signature.

HB 1086 - Creating the state office of behavioral health consumer advocacy.

Sponsors: [Simmons](#), [Caldier](#), [Bateman](#), [Ortiz-Self](#), [Shewmake](#), [Ryu](#), [Chopp](#), [Cody](#), [Goodman](#), [Fey](#), [Stonier](#), [Macri](#), [Fitzgibbon](#), [Frame](#), [Davis](#)

Brief Summary of Engrossed Second Substitute Bill

- Eliminates regional behavioral health ombuds services and creates the State Office of Behavioral Health Consumer Advocacy (SOBHCA) to establish rules, standards, and procedures for behavioral health consumer advocacy services across the state.
- Directs the SOBHCA to contract with a private nonprofit organization to provide behavioral health consumer advocacy services including certifying and coordinating the activities of behavioral health advocates throughout the state.
- Requires Medicaid managed care organizations to contract with the private nonprofit organization to provide behavioral health consumer advocacy services to their enrollees.

By Jan. 1, 2022, the department shall contract with a private nonprofit organization to provide the State Office of Behavioral Health Consumer Advocacy. HB 1086 came out of the Senate Rules Committee and passed on a floor vote on April 7. On April 13, the House concurred with the Senate amendments and final passage. This bill has been delivered to the Governor for his signature.

SB 5370 - Updating mental health advance directive laws.

Sponsors: [Keiser](#), [Dhingra](#), [Saldaña](#), [Wilson, C.](#)

Brief Summary of Engrossed First Substitute Bill

- Simplifies the form used to create a mental health advanced directive.
- Allows a mental health advanced directive to be acknowledged by a notary public instead of two witnesses.
- Changes terminology to refer to behavioral health disorders instead of mental health disorders.
- Creates a role for substance use disorder professionals in evaluating capacity for the purpose of a mental health advanced directive.

With the passing of this bill, mental health advance directives may be acknowledged before a notary public instead of being witnessed by two adults. A person who is 13 to 17 years of age may execute a mental health advance directive if the person is able to demonstrate they are capable of making informed decisions relating to behavioral health care. Provisions stating an agent may act on behalf of the principal with respect to health care information are changed to specify the agent may act as the principal's personal representative for the purposes of HIPAA.

Also, references to mental health are changed to behavioral health in the context of disorders and conditions which could trigger the provisions of a mental health advance directive. A substance use disorder professional may participate in an incapacity determination for the purpose of invoking a person's mental health advance directive in circumstances in which the role may be fulfilled by a mental health professional. This bill has been delivered to the Governor for his signature.

SB 5476 - Addressing the State v. Blake decision. (REVISED FOR ENGROSSED: Responding to the State v. Blake decision by addressing justice system responses and behavioral health prevention, treatment, and related services.)

Sponsors: [Dhingra](#), [Hasegawa](#), [Hunt](#), [Kuderer](#), [Lovelett](#), [Nguyen](#), [Pedersen](#), [Rivers](#), [Robinson](#), [Saldaña](#), [Wellman](#)

Brief Summary of Engrossed Bill

- Reduces the criminal penalty for possession of a controlled or counterfeit substance from a felony to a gross misdemeanor.
- Requires the prosecutor to divert a person's first and second violations for possession of a controlled substance, counterfeit substance, or legend drug and encourages diversion thereafter when agreed by the prosecutor.
- Requires the Health Care Authority to establish the substance use recovery services advisory committee to make recommendations for implementation of a substance use recovery services plan, including recommended reforms to the law.
- Authorizes presiding judges of superior courts to appoint court commissioners with the authority to conduct re-sentencing hearings and vacate convictions pursuant to State v. Blake.

On Feb. 25, 2021, the Washington Supreme Court issued a [decision](#) declaring the state's main drug possession statute [RCW 69.50.4013\(1\)](#) unconstitutional and "void." The ruling occurred in a case known as State v. Blake. In 2016, Shannon Blake was arrested in Spokane and convicted of simple drug possession. Blake argued that she did not know there was a baggie of methamphetamine in the jeans she had received from a friend.

This bill will establish personal use amounts for controlled substances and removes criminal penalties for the possession of a controlled or counterfeit substance or a legend drug that does not exceed the personal use amount. It also authorizes law enforcement to refer individuals possessing a personal use amount of a controlled substance, counterfeit substance, or legend drug to a forensic navigator for the purpose of evaluation and treatment.

The Health Care Authority (Authority) is required to establish a substance use recovery services advisory committee. The Authority

must appoint members to the committee who have relevant background related to the needs of persons with substance use disorders and be reflective of the community of individuals living with substance use disorders. The committee shall include four legislative members representing each of the two largest caucuses of the House of Representatives and the Senate.

The committee shall establish a substance use recovery services plan with a preliminary report due on December 1, 2021, and the final report due on December 1, 2022. The plan shall be implemented by December 1, 2023. Subject to appropriation, the Authority shall create a grant program to provide treatment services to low-income individuals, establish an expanded recovery support services program to increase access to services for individuals in recovery from substance use disorder, and establish a homeless outreach stabilization transition program.

Each Behavioral Health Administrative Services Organization (BHASO) must establish a recovery navigator program that provides community-based outreach, intake, assessment, and connection to services to youth and adults with substance use disorders. The Authority must provide funding to each BHASO for the recovery navigator programs, subject to appropriation.

This bill has been delivered to the Governor for his signature.

SB 5073 - An act relating to improving involuntary commitment laws.

Sponsors: Senate Committee on Behavioral Health Subcommittee to Health & Long Term Care (originally sponsored by Senators Dhingra, Das, Kuderer, Salomon, Warnick and Wilson, C.)

Brief Summary of First Substitute Bill

- Expands the authority of a designated crisis responder (DCR) to conduct a civil commitment investigation by video to include investigations involving an adolescent.
- Expands minimum requirements for less restrictive alternative treatment.
- Requires DCRs to attempt to ascertain whether a person being investigated for civil commitment has executed a mental health advance directive.
- Authorizes courts to provide periodic monitoring patients for ordered to receive involuntary outpatient treatment and to modify the terms of their commitment orders.

In this bill, a designated crisis responder (DCR) may conduct an involuntary commitment interview for an adolescent by video, provided that a health professional who can adequately assist the adolescent is present at the time of the interview. This provision is subject to an emergency clause and effective immediately.

Minimum requirements for a program of less restrictive alternative (LRA) treatment are modified by allowing a substance abuse evaluation to be provided instead of, or in addition to, a mental health evaluation and by requiring consultation about the formation of a mental health advance directive. A care coordinator may disclose information related to LRA treatment to implement involuntary commitment proceedings.

A court may conduct periodic review of the progress of a person on an LRA or conditional release order, modify the terms of the order, and take certain actions. The length of the conditional release period is clarified. The definition of less restrictive alternative for an adolescent is altered to explicitly include residential treatment outside an inpatient hospital setting. Terminology is changed from written orders of apprehension to warrants; and from drug abuse, substance abuse, and alcoholism to substance use disorder. Technical language updates and changes are made.

This bill is awaiting signature from the Governor.

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