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## *This Week in Olympia*

### Legislative Update

January 27, 2012



CONNECT   

This third week of the 2012 Legislative Session has seemingly focused primarily on policy issues both big and small, some being more controversial and visible than others, such as marriage equality.

Progress on agreement around budget spending reductions, reforms or revenue has not been publicly evident, although lawmakers continue to hold discussions within their own caucuses and across the aisle between Democratic and Republican leadership. Leadership has been meeting late into the evenings deliberating on budget solutions and all are coming to realize the gravity of what it means to address a \$1.5 billion deficit through the remainder of the biennium. The recent Supreme Court ruling regarding the state's paramount duty to pay for basic education is now a fundamental component of all fiscal decisions for state-dependent programs, adding to the complexity and nature of public policy development in this session and into the future.


We look forward to seeing you at our Legislative Rally Day on February 1<sup>st</sup> at 9:30 a.m. in the Heritage Room, Capitol Lake, in Olympia. This is the one opportunity Aging Services of Washington members have to come together, as a body, to discuss the latest happenings in Olympia and speak in a unified voice, representing the needs of seniors and those who serve them.

We encourage, and need, your advocacy efforts again this year. We ask that you get involved early and stay involved throughout the entire session. Make appointments to visit with your legislators while they are in Olympia and share with them your funding needs and position on policy bills. In-person visits are the best way to educate your representatives about your community, those whom you serve and ways in which funding cuts and policy changes will impact your residents, clients, their family members and your employees. Alternatively, you can call or email them with this important information.

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Below you will find our analysis of legislation introduced to date. As always, if you have any questions regarding bill proposals or our position on them, please do not hesitate to call on your legislative team – [Deb](#), [Julie](#) or [Paul](#) at the office, 253-964-8870.

Our contract lobbyist again this year is Scott Sigmon; if you wish to speak with him, you may call our office for his contact information. For information about contacting your elected officials or reviewing current legislative activities, click [here](#).

**NEW LEGISLATION INTRODUCED – 2nd & 3rd week of the 2012 Regular Session****[HB 2462](#) - RELATING TO IMMUNITY FOR HEALTH CARE PROVIDERS FOLLOWING END-OF-LIFE PLANNING DECLARATIONS**


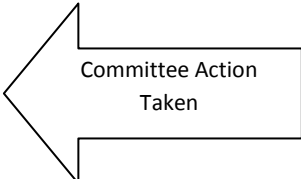
Scheduled for  
Committee Action

This legislation provides legal immunity for emergency medical personnel and health care providers who rely on a valid Physician Orders for Life Sustaining Treatment (POLST) form when providing, withholding or withdrawing certain emergency medical treatments.

The Department of Health is directed to design a guide and protocols for usage of the POLST form by emergency personnel when responding to calls/events. The POLST form may be used by health care providers to communicate orders pertaining to emergency and end-of-life care.

The House Judiciary Committee held a public hearing on the bill earlier this week and has scheduled it for Executive Action on January 30.

**POSITION: SUPPORT, WITH PROPOSED AMENDMENTS**

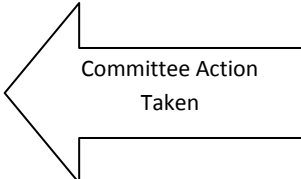
**[HB 2473](#) – RELATING TO CREATING A MEDICATION ASSISTANT ENDORSEMENT FOR CNAs WORKING IN NURSING HOMES**


Committee Action  
Taken

In a continuation of efforts from last year's legislative session, this bill creates an endorsement to the Nursing Assistant, Certified credential that would allow, under certain circumstances, the NAC working in the nursing facility to administer limited medications and perform identified treatments under the direct supervision of an RN. The new endorsement is entitled 'Medication Assistant'. Qualifications, training, exams, and specific tasks and duties within a scope of practice are to be developed by the Department of Health. Participation by a nursing home in the usage of such credentialed workers is voluntary.

It remains to be seen, given the number of new proposals related to, and defining, the role of medical assistants, whether this legislation is able to move forward as a stand-alone bill.

**POSITION: MONITOR**

**[HB 2578](#) – CONCERNING DISCIPLINARY ACTIONS AGAINST THE HEALTH PROFESSIONS LICENSE...**


Committee Action  
Taken

This legislation allows summary suspension of a license or temporary practice permit upon determination of a final order by DSHS that the holder is disqualified from unsupervised access to vulnerable adults in a nursing home, boarding home, adult family home or in-home setting. That suspension remains in effect until the disciplinary process by the pertinent authority has been completed.

Further, an applicant for a license or permit may not practice in that health care profession if they are disqualified from unsupervised access to vulnerable adults by a final order by DSHS until proceedings from the disciplinary authority have been completed.

HB 2578 was the subject of a public hearing and passed out of the House Health Care & Wellness Committee this week.

**POSITION: SUPPORT**

**HB 2685 – RELATING TO NURSING HOMES**

This bill resets the Medicaid nursing facility Financing Allowance factor to 8.5% on the net book value of assets in a nursing facility acquired prior to June 30, 2011 and to 4% on the net book value of assets in a nursing facility acquired post July 1, 2011.

During last session, a flat 4% return on all assets, regardless of the date of acquisition, was mandated. While this bill is an attempt to overcome the onerous 2011 methodology change, we believe it does not adequately set an appropriate return percentage for assets acquired post July 1, 2011. Debt servicing in the current marketplace reflects the appropriateness of an 8.5% return regardless of the date assets were acquired and put into use within the nursing facility.

HB 2685 has been referred to the House Health & Human Services Appropriations & Oversight Committee. A hearing has not yet been scheduled.

**POSITION: MONITOR**

**HB 2727 - CONCERNING DISBURSEMENTS FROM THE SKILLED NURSING FACILITY SAFETY NET TRUST FUND**

This proposed legislation reinforces the intent of legislation passed last year that created a nursing facility safety net assessment by adding language to underlying law which states that ‘... the legislature may not transfer or appropriate funds inconsistent with this chapter.’

By way of background, in 2011 the legislature established the Skilled Nursing Facility Safety Net Trust Fund (Trust Fund). All proceeds from the assessment fee are directed into this fund. The Trust Fund is subject to appropriation and can only be used for:

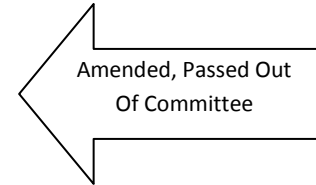
- Immediate pass-through to nursing facilities or rate add-on to reimburse the Medicaid share of the fee;
- Maintenance and enhancement of the Medicaid nursing facility rates; and
- Administration of the collection and disbursement of the fee; however, these administrative expenses cannot exceed one-half of one percent of the proceeds from the fee.

Additionally, HB 2727 adds: ‘The legislature may not increase the assessment solely for purposes of supplanting state general fund payments to skilled nursing facilities.’

Aging Services of Washington has consistently expressed concern that offsetting general fund state expenditures with federal funds via this assessment mechanism can create an unsustainable dependence.

The bill has been referred to the House Ways & Means Committee. A public hearing has not been scheduled.

**POSITION: MONITOR**



**SSB 6237 – CREATING A CAREER PATHWAY FOR MEDICAL ASSISTANTS**

First heard on January 18, the Senate Health and Long-Term Care Committee passed this bill out of committee in an amended form on January 26.

Similar in concept to SHB 2227, this bill seeks to transition and ultimately replace the credential of health care assistant with medical assistant credential, although it is much narrower in scope.

**POSITION: MONITOR**

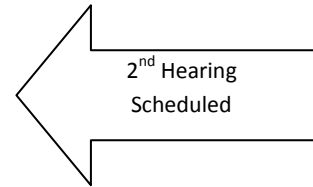
**SB 6517 – REGARDING HOSPITAL FINANCING AND TAX PREFERENCE ELIGIBILITY**

This legislation adds requirements to hospitals seeking financing through the Washington Health Care Facilities Authority, specifically: provision of prescribed charity care benefits; implementation of programs that will reduce emergency room usage for non-emergent health conditions; participation in activities to support the principles of accountable care; and the provision of documentation of community health needs.

Further, a nonprofit hospital or public hospital district must provide certain charity care considerations in order to qualify for and maintain their nonprofit status: documentation of charity care provided, including costs of care and charges of care; the salaries of the top 5 highest paid officials; and documentation of the availability of mental health beds within their hospital and within the region relative to the needs of the greater community for such services.

The bill has yet to be scheduled for a hearing in the Senate Health & Long-Term Care Committee.

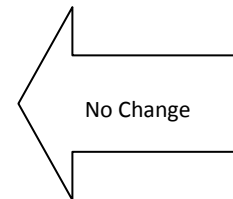
**POSITION: MONITOR**

**CONTINUING LEGISLATION****SHB 2056 - RELATING TO ASSISTED LIVING FACILITIES**

SHB 2056 was passed out of the House Health Care Committee in an amended form, and due to an accompanying projected cost (\$69,000 General Funds - State) in the form of a fiscal note, will now be subject to a further public hearing on Tues., January 31 in front of the House Health & Human Services Appropriations & Oversight Committee. The bill was amended per Aging Services of Washington's recommendations provided during its first public hearing.

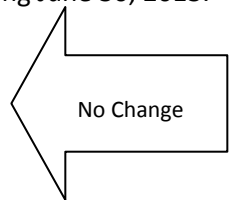
This bill replaces the term 'boarding home' with 'assisted living' in licensure and other relevant statutes. The current terminology of 'assisted living' is confusing for consumers. Oftentimes, the term 'boarding home' is used interchangeably with 'assisted living' – the former is a licensing term and the latter is more commonly used today as a term of art. The reference to 'boarding homes' is antiquated and no longer reflects the array of care and services available in these settings which have become an integral component of the care delivery options for seniors and persons with disabilities.

**POSITION: SUPPORT**

**HB 2127 / SB 5967 – PROVIDING APPROPRIATIONS FOR THE 2011-2013 SUPPLEMENTAL STATE OPERATING BUDGET**

HB 2127 and SB 5967 were each heard in their respective Ways & Means Committees during the 2011 2<sup>nd</sup> Special Session, and have been carried forward into the 2012 regular session with referral to the same committees. These companion bills provide for the appropriations necessary to implement the Governor's proposed Supplemental Operating Budget for the current biennium, ending June 30, 2013.

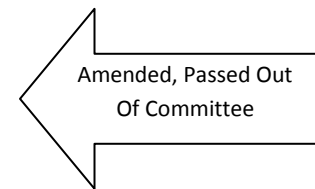
**POSITION: OPPOSE FUNDING CUTS; MONITOR**

**HB 2130 – COST-BASED REIMBURSEMENT FOR CRITICAL ACCESS HOSPITALS**

This legislation, introduced during the 2011 2<sup>nd</sup> Special Session and carried forward into the 2012 regular session, would essentially eliminate the enhanced rate paid to critical access hospitals, their payment methodology would be placed into rule, and they would be exempt from the Hospital Safety Net Assessment. It has been referred to the House Ways & Means Committee.

**POSITION: MONITOR**

**SHB 2150 – GENERATING REVENUE FROM COMMUNITY  
RESIDENTIAL SERVICE BUSINESSES**



This bill was passed out of the House Ways & Means Committee in an amended form on January 25, and is subject to referral to the Rules Committee for further action by the House.

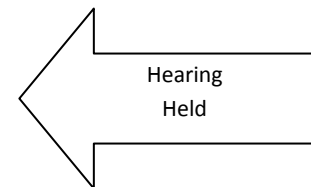
A tax of 4 and 7/10 % is imposed on gross revenues of a community residential service provider/business licensed or certified by DSHS to provide certain services to those individuals defined as having a developmental disability.

One hundred percent of the moneys collected under this structure must be deposited in the developmental disabilities community residential investment account created with the same legislation. Expenditures from the account may only be used for payments to community residential service businesses.

We are watching this bill for potential amendments which would seek to impose a utility tax on other Home and Community Based Services, similar to legislation proposed last year.

**POSITION: MONITOR**

**HB 2207 – GRANTING SCHEDULING AUTHORITY FOR MEDICAL  
EXAMS FOR QUALIFIED RETRO...EMPLOYERS AND GROUPS**

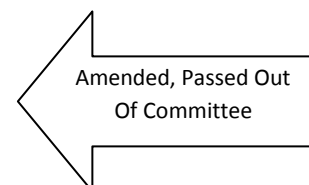


This legislation would allow retrospective rating plan employers to assist the Department of Labor & Industries in the processing of claims under certain conditions and to schedule independent medical exams, consultations and vocational rehabilitation assessments from approved lists of providers. Provisions for training, costs, disputes, etc. are proscribed in the bill.

HB 2207 was the subject of a recent public hearing in the House Labor & Workforce Development Committee. Amendments are expected prior to formal committee action on the bill, but are not expected to be detrimental to Aging Services of Washington employers. No further action has been scheduled.

**POSITION – SUPPORT**

**SHB 2227 – RELATING TO MEDICAL ASSISTANTS**



The bill was heard in the House Health and Wellness Committee on January 12 and passed out in an amended form on January 26.

This legislation, as amended, creates four new Medical Assistant credentials, rather than only one as the initial bill proposed: Certified, Registered, Hemodialysis Technician and Phlebotomist. Training,

examinations, scope of practice limitations and other requirements are to be developed by the Department of Health.

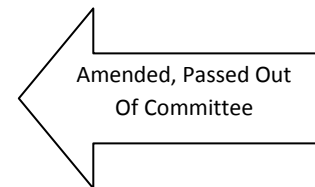
This new credentialed worker would be able to perform such procedures as preparing of and assisting in sterile procedures, capillary blood withdrawal, venipuncture, non-IV injections, specimen collection, EKGs, and some medication administration. The reference to 'standing orders' is withdrawn and the ability for care to be performed by medication assistants under 'standing orders' is no longer allowed. Medication administration and the delegation of identified tasks would continue to be allowed under certain circumstances.

The Medical Assistant credentials would replace in entirety the Health Care Assistant (HCA) credential in 2016.

The creation of such allied health professions is designed to be of benefit to patients and existing health care professionals, particularly in light of rising acuity levels, challenges in rural medical practices and health care personnel shortages, in addition to saving scarce state and federal dollars.

**POSITION:** SUPPORT, with concerns

**SHB 2228 - RELATING TO MEDICATION ACCESS FOR THE UNINSURED**  
**(also see comments on SB 6048, SSB 6051)**



This legislation passed out of the House Health Care and Wellness Committee on January 26 in an amended form. It would allow nursing homes, licensed boarding homes (assisted living) and adult family homes (among others) to donate prescription drugs and supplies to a participating pharmacy for redistribution, who then may distribute them to another participating health care facility or pharmacy for reuse.

Committee amendments included an expansion of the list of entities that can donate prescription drugs and supplies to participating pharmacies, requires the department to develop rules to establish patient eligibility requirements and changes priority of the end-user to patients that are uninsured and low-income, rather than to individuals that are either low-income or uninsured. Certain changes were made to recall notice provisions and immunity provisions.

Aging Services of Washington supports the intent of this bill to develop a system for the redistribution, on a voluntary basis, of unused medications to others in need. We do, however, have concerns about adequate liability protections for participating entities, consumer safety and the possible savings that may be realized through this program given non-narcotics are not included and the cost of generic and over-the-counter medications are likely less than the cost involved in repackaging and redistributing these drugs.

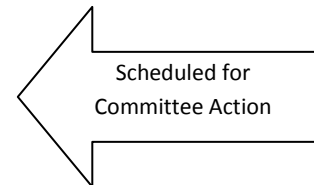
**POSITION:** SUPPORT WITH CONCERNS

**HB 2249 / SB 6076 – RELATING TO SENIOR CENTER LICENSES**

These companion bills would create a senior center liquor license, permitting the licensee to sell spirits by the individual glass for consumption on the premises under a different fee structure than is currently in place, and with changes to limitations on frequency of license usage. The senior center licensee must be a nonprofit organization, use only licensed servers and follow regulations subsequently developed by the liquor control board.

SB 6076 has been heard in front of the Senate Labor, Commerce and Consumer Protection Committee and is scheduled for Executive Action on Monday, Jan. 30. There has been no hearing scheduled for HB 2249.

**POSITION: MONITOR**

**HB 2314 – CONCERNING LONG TERM CARE WORKERS**

HB 2314 has been heard by the House Health & Wellness Committee and is scheduled for Executive Action on Monday, January 30.

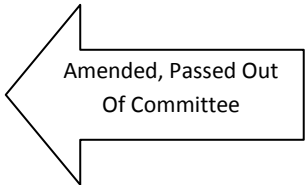
This legislation incorporates the language of Initiative 1163 into corresponding statute, corrects references to previous effective dates of 2011 and 2014 (due to delay of caregiver training in the 2011 legislative session), allows nurse delegation to certified home care aides under certain conditions and excludes Community Residential providers from the training and certification requirements.

Supported Living providers had been previously exempted; this legislation expands that to include such settings as group homes, etc., all of which are related to the provision of care to the developmentally disabled. Community Residential is the overarching title of this group of provider licenses.

Importantly, the bill would remove the July 1, 2012 requirements for CE units for credentialed NAC, LPN and RN Long Term Care (LTC) Workers. Only the non-credentialed LTC worker (employed prior to January 7, 2012) and the Certified Home Care Aide would be subject to the CE changes which will occur in July.

The state would continue to be obligated to fund the cost of the required FBI Background Checks. The effective date for compliance with FBI Background Checks rules, however, is moved to January 7, 2012 rather than the DSHS-decided date of January 2, 2012. This gives affected providers an additional five days in which to have complied with the FBI Background Check process.

**POSITION: MONITOR**

**SHB 2341 – RELATING TO COMMUNITY BENEFITS PROVIDED BY HOSPITALS**

 Amended, Passed Out  
Of Committee

The House Health Care & Wellness Committee passed an amended version of this legislation out of committee January 26. It is now eligible to be sent to the Rules Committee, thus is closer to a vote by the full body before passing over to the Senate for its deliberations.

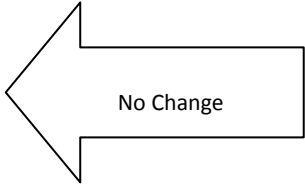
This legislation would require, beginning January 1, 2014, hospitals organized as or associated with a nonprofit entity or operated by a public hospital district to submit to the state a community health needs assessment every three years. Specific assessment components are identified within the bill, which the amended version has limited in scope. Additionally, an implementing strategy must be submitted within one year of each assessment submittal. Both of these submissions are in addition to that required of these entities by the IRS, although the amended legislation allows the IRS forms to be used as a partial stand-in for the state requirements. Hospitals are encouraged to collaborate for the purpose of development of only one assessment if they collectively serve the same community, and the Department of Health is directed to fund significant portions of these requirements. SHB 2341 has also removed the mandate for nonprofit hospitals to meet a specific community benefit level in order to maintain their nonprofit status.

**POSITION: MONITOR****SB 6022 - RELATING TO LONG-TERM CARE SERVICES**

 No Change

SB 6022 changes the effective date of Initiative Measure No. 1163 (related to Caregiver Training) to July 1, 2014. Washington State cannot afford to spend scarce state dollars on an unfunded mandate of questionable benefit to assisted living residents and to those who care for them.

It has been referred to the Senate Ways & Means Committee and remains to be scheduled for a hearing.

**POSITION: SUPPORT****SB 6048 – RELATING TO PERMITTING NURSING HOMES TO RECYCLE UNUSED PRESCRIPTION MEDICINES  
(also see comments on SHB 2228, SSB 6049, SB 6051)**

 No Change

Aging Services of Washington testified in support of this legislation, but with concerns as noted below, at its public hearing on January 11. No further action has yet been taken.

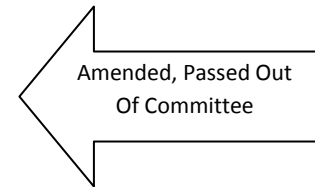
This bill, while similar to other legislation introduced for the purpose of allowing the redistribution of unused drugs, specifically applies to nursing homes. It allows participating nursing homes to share, between themselves, unused (non-controlled substances) prescription drugs. It also allows them to accept donations from drug manufacturers and prescribing health care practitioners. All drugs must be in unopened single-unit dose packaging, and may not have been in the possession of a patient or other individual who is not a program participant as defined by the bill. Handling fees are allowed to be

charged by participating facilities. None of the donated drugs may be resold, and all must be legally re-prescribed to the end user.

Aging Services of Washington supports the intent of this bill to develop a system for the redistribution, on a voluntary basis, of unused medications to others in need. We do, however, have concerns about adequate liability protections for participating entities, consumer safety and the possible savings that may be realized through this program given non-narcotics are not included and the cost of generic and over-the-counter medications are likely less than the cost involved in repackaging and redistributing these drugs.

**POSITION: SUPPORT WITH CONCERNS**

**SSB 6049 – RELATING TO...A CANCER DRUG REPOSITORY PROGRAM**  
(also see comments on SB 6048 and SB 6051)



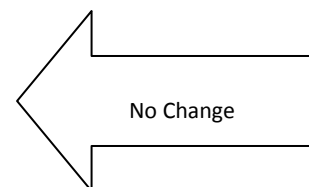
Aging Services of Washington supported this legislation at its public hearing on January 16, with concerns as noted below. An amended bill was passed out of the Senate Health and Long-Term Care Committee on January 23.

This legislation would require the Department of Health to create a program for the redistribution of cancer drugs. Amendments to the original bill include heightened liability protection language, tamper-evident packaging requirements, and limited those entities accepting the used medications to pharmacies and health care practitioners (SB 6049 allowed nursing homes to be a collector).

Aging Services of Washington supports the intent of this bill to develop a system for the redistribution, on a voluntary basis, of unused medications to others in need. We do, however, have concerns about adequate liability protections for participating entities, consumer safety and the possible savings that may be realized through this program given non-narcotics are not included and the cost of generic and over-the-counter medications are likely less than the cost involved in repackaging and redistributing these drugs.

**POSITION: SUPPORT WITH CONCERNS**

**SB 6051 - RELATING TO THE DONATION AND REDISTRIBUTION**  
**OF UNUSED PRESCRIPTION DRUGS**  
(also see comments on SHB 2228, SB 6048 and SSB 6049)



An individual would be allowed to donate unused (non-controlled substances only) prescription drugs to a nursing home (as well as certain other health care facilities), in accordance with rules to be subsequently developed, for the purpose of redistribution to the end-user. Protections designed to address concerns such as the donor source, potential for tampering, liability of the accepting facility or redistributing provider are addressed included within the bill. All drugs must be legally re-prescribed to the end user. This legislation is not applicable to licensed boarding homes or adult family homes. A

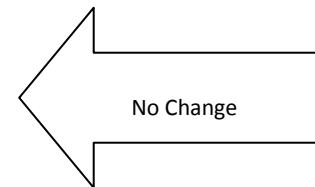
handling fee of no more than \$20 may be charged to the recipient/end user of the drug by the nursing home or participating prescribing practitioner to offset the costs of inspecting the drugs, storage, repackaging, etc.

Aging Services of Washington supports the intent of this bill to develop a system for the redistribution, on a voluntary basis, of unused medications to others in need. We do, however, have concerns about adequate liability protections for participating entities, consumer safety and the possible savings that may be realized through this program given non-narcotics are not included and the cost of generic and over-the-counter medications are likely less than the cost involved in repackaging and redistributing these drugs.

Aging Services of Washington testified in support of this legislation, but with concerns as noted above, at its public hearing on Thursday, January 11.

**POSITION: SUPPORT WITH CONCERNS**

**SB 6054 – RELATING TO ELIMINATING THE CERTIFICATE OF NEED FOR ALL HEALTH CARE FACILITIES EXCEPT HOSPITALS**

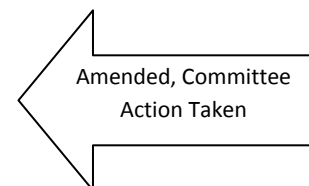


This bill would exempt CCRCs, hospice, nursing homes, home health agencies and other health care entities, with the exception of hospitals, from the state’s certificate of need program and accompanying regulations. It is unlikely that this bill will be scheduled for hearing given the long-held perceived policy and fiscal benefits to a regulated market.

It has been referred to the Senate Health and Long-Term Care Committee but not yet scheduled for a hearing.

**POSITION: PENDING**

**SSB 6115 – RELATING TO THE HEALTHCARE WORKFORCE**



This bill was passed out of the Senate Health and Long-Term Care Committee this week in an amended form.

This bill creates a health care personnel shortage task force to establish and maintain a state strategic plan to ensure an adequate supply of health care professions, of which long term care workers are one of many. The task force seeks to examine, as one of its functions, scopes of practice of all health care licensees with the goal of having workers function at the top of the scope of their credential.

Committee amendments primarily pertained to requiring the University of Washington School of Nursing to consult with the task force when making changes to degree requirements or proposing to eliminate or add degree offerings. Any change, elimination, or addition to a degree program must be in

accordance with the state strategic plan and further the social good and the public health of the people in the state.

SSB 6115 further provides for the ability of a fire department to develop programs which would assist or divert those 'low-acuity' users of 911 to connecting with community health care providers and social services. Reductions in repeated use of the 911 system and avoidable emergency room visits would be a required measurement of the program.

**POSITION: PENDING**

**Aging Services Legislative Team — Questions? Contact Us!**

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