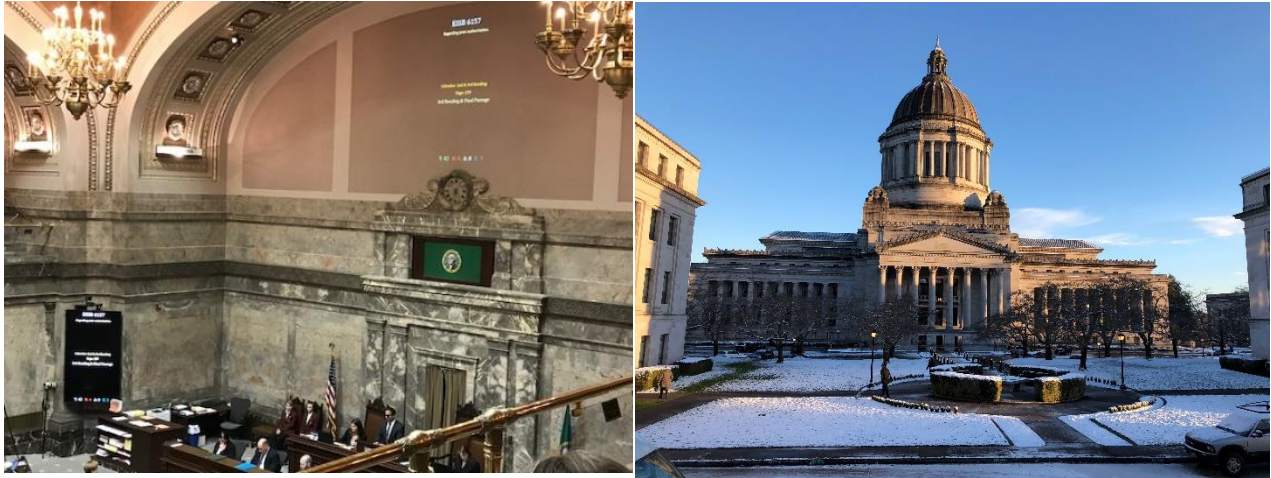


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WEAMA March 2018 Legislative Session Summary

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Senate Passage of SB 6157 Prior Authorization

Winter wonderland during session!

Legislative Overview

March 8th was the last day of the 60-day, short session of the Washington State 2018 Legislative Session. Washington State has a biennial legislature, meaning that the budget and the bills introduced live for two years. The fiscal biennium is from July 1 of odd-numbered years to June 30, two years later. Lawmakers passed the final piece of the McCleary Supreme Court education funding decision, along with a one-time property tax cut for homeowners. Thursday night's adjournment was the first-year lawmakers haven't had to go into special session since 2014.

After a win in a key Senate seat in November, Democrats were in charge of both legislative chambers for the first time in five years, holding narrow majorities in both the Senate and House, which means the new majority in the Senate was able to get some, but not all, of their priorities out of both chambers this year. We did have one big bruhaha in the media this session. A bipartisan effort to exempt lawmakers from the state's Public Records Act in response to a court ruling last year resulted in a backlash that led Governor Inslee, who initially said he wouldn't veto the measure, to change course and veto the bill.

Keep in mind that 2018 is an election year and that partisanship will be running high around the state with both parties vying for control of the House and Senate in 2019. All House members are up for election and half of the Senate. That is why contributing to the [WEAMA PAC](#) is so important this year!

1,410 bills were introduced this session, and 317 made it through the legislative process and are on their way to Governor Inslee for signature. Unless a different date is specified, bills become law ninety days after adjournment of the session in which the bill passed. WEAMA was tracking 49

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bills at the height of the session and 11 of those bills passed the legislature! Here's a look at some of what passed and what died this past legislative session:

2018 Legislative Session Bills of Interest/Concerns for East Asian Medicine Practitioners

ESSB 6157 Prior Authorization (Passed the Legislature and is awaiting signature by the Governor)

WEAMA has been working closely with chiropractic, physical therapy, occupational therapy, massage therapy, or speech and hearing therapies associations on a Prior Authorization bill for about 3 years now. As a team we "worked the doors" in the Senate and the House to request that legislators come out and speak with us regarding the bill. We were facing stiff opposition from all the health insurance providers. Near to the final vote in the Senate, an amendment was negotiated with the insurance companies on the bill. The bill allows for one visit for initial evaluation and six uninterrupted visits before you have to do another prior authorization. We started with 12 visits, then 8 and in the end were only able to negotiate 6, but from what our providers tell me this will still help as some insurers start prior auth after 3-4 visits. Here were our talking points with legislators:

For every day of delay, an opioid is prescribed in its place!

- Every service listed in this bill is a non-pharmacological option to an opioid
- This bill gives patients access to up to eight visits of care without having to seek prior authorization.
- This bill does NOT require additional benefits be covered.
- This bill does NOT remove medical necessity.
- This bill does NOT remove prior-authorization completely!
- Prior authorizations drive up costs by requiring unnecessary evaluation visits at intervals that are too soon
- Prior authorizations shift administrative burden to providers and delay care.
- This bill simply gives patients up to 6 consecutive visits of their already existing benefits, for the same episode of care, without going through the administrative burden of prior authorization.
- Third party companies from out-of-state, who are unregulated, are hired by insurers to interfere with the Provider-Patient relationship.

HB 2489, (Died, Governor Inslee's bill) Opioid use disorder treatment and prevention.

WEAMA strongly supported this bill which had bi-partisan support and passed out of the House unanimously with 98 yeas' and 0 nays! Sadly, the bill died in the Senate due to two factors. It had a \$15 million fiscal note and there was an attempt to add a "poison pill" amendment to the bill at the very end of session. Some of the opioid measures in the bill are in the state budget. The bill:

- Initiated a pilot project to start using EAMPs for acupuncture treatments, along with other non-pharmaceutical providers with Medicaid in WA State. By October 2018, the health

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care authority shall develop and recommend for coverage nonpharmacologic treatments for chronic noncancer pain and shall report to the governor and the appropriate committees of the legislature, including any requests for funding necessary to implement the recommendations under this section.

- Required DSHS, the Health Care Authority, and DOH to partner on initiatives that promote a statewide approach in addressing opioid use disorder and modifies the protocols for using medication-assisted treatment for opioid use disorder.
- Permitted the Secretary of Health to issue a standing order for opioid reversal medication.
- Established new requirements for how electronic health records integrate with the prescription monitoring program (PMP) and how PMP data can be used.
- Required DSHS, in conjunction with others, to develop strategies to support rapid response teams in communities identified as having a high number of fentanyl-or opioid-related overdoses and to create a program to connect certified peer counselors with individuals who have had a nonfatal overdose, within 24 hours of the overdose.
- Allowed hospital emergency departments to dispense opioid overdose reversal medication when a patient is at risk of opioid overdose.

ESHB 1047 Medicine Return: (Passed) Requires manufacturers that sell drugs into Washington to operate a drug take-back program to collect and dispose of prescription and over-the-counter drugs from residential sources. The Senate passed ESHB 1047 by an 44-0 vote! The Senate is where the bill has traditionally died in the past. The bill's sponsor, Rep. Peterson worked closely with PhRMA on the final amendments to the bill to gain their support...or at least neutrality. WEAMA has been supporting this legislation for over 8 years. I think the opioid crisis definitely had something to do with the momentum this year!

SB 6032 Supplemental budget: (Passed) The plan spends more than \$776 million to expedite the timeline on fully funding teacher salaries, which lawmakers believe is the last step needed to satisfy a 2012 ruling that found that K-12 school funding was not adequate. While the main focus is on education funding, the budget also allocates additional money for mental health, health care and higher education, among other areas. The overall plan also provides a 30-cent cut to statewide property taxes in 2019, with the rate dropping from \$2.70 per \$1,000 of assessed value to \$2.40. The budget includes no new taxes and leaves \$2.4 billion in total reserves at the end of the current two-year cycle.

Why should the state budget important to East Asian Medicine Practitioners? Because it impacts the legislative environment that we operate in! When legislators have big budget problems it makes it difficult to get policy bills passed. Especially bills with fiscal notes. The budget can also impact your business and property taxes...

The state budget is a compromise between the Governor, the House of Representatives and the Senate and a "Conference Committee" creates the final budget. This year it's a Supplemental Budget for the larger 2017-2019 budget that was created last session.

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If you have not looked at the state budget before to see how your tax dollars are spent, please go to: [Conference Committee \(3/7/2018\)](#) **new**

State Agency Regulatory Update

DOH Opioid Prescribing Rulemaking

WEAMA has been working with the state agencies on using Acupuncture as an alternative to opioids for a number of years. Since the Governor's Opioid bill died this legislative session, the Opioid Rulemaking being done with prescribing Boards and Commissions are the only "vehicle" that is still moving forward legislatively that can promote the use of Acupuncture as an alternative to Opioids. The Opioid Prescribing Rules ([ESHB 1427](#)) intends to implement safe opioid prescribing rules, expand access and use of Prescription Monitoring Program (PMP) data, and improve access to medication assisted treatment.

The Opioid Prescribing & Monitoring Rules Revision workgroup, whose mission is to decrease opioid-related morbidity and mortality in Washington State, met on March 14, 2018 to review:

- [A copy of the 1427 Conceptual Rules Draft, version 6.2;](#)
- A copy of proposed additional language for section X91 proposed by the Medical Quality Assurance Commission and the Agency Medical Directors Group;
- A copy of the final agenda.

These materials will also be posted to the [Opioid Prescribing ESHB 1427 Implementation webpage](#). I attended the full day meeting and testified on WEAMA's behalf to keep this language in the rules. We were successful in keeping this language in the final draft of the rules:

CONCEPTUAL DRAFT VERSION 6.2 GENERAL PROVISIONS

246-XXX-X05 Use of Alternative Modalities for Pain Treatment (1) The practitioner shall consider multimodal pharmacologic and non-pharmacologic therapy for ~~acute, subacute, or perioperative~~ pain rather than defaulting to the use of opioid therapy alone whenever reasonable, evidence-based, clinically appropriate, alternatives exist. A practitioner may combine opioids with other medications and treatments, including, but not limited to, acetaminophen, acupuncture, chiropractic, cognitive behavior therapy, nonsteroidal anti-inflammatory drugs (NSAIDS), osteopathic manipulative treatment, physical therapy, massage, or sleep hygiene.

Acupuncture and ARNPs Medical Acupuncture Advisory Opinion with NCQAC

WEAMA met with the Assistant Secretary, Kristin Peterson on February 23, 2018 to discuss the internal process around Advisory Opinions and Rulemaking at the Department of Health. We are still reviewing our options at this time. Background: The Nursing Care Quality Assurance Commission (NCQAC) has approved of an [Advisory Opinion on Medical Acupuncture: Scope of Practice for Advanced Registered Nurse Practitioners](#). The Advisory Opinion significantly expands their scope of practice into a highly regulated state profession trained to practice acupuncture and requiring national certification with the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM).

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On November 8, 2017 the EAMAC submitted a letter to the NCQAC stating “The East Asian Medicine Advisory Committee (committee) reviewed this advisory opinion at their October 20, 2017 meeting. The committee is requesting NCQAC to start the rule-making process on this issue per RCW 18.79.110(1), providing an opportunity for the public for public input. The committee would also request that the ARNP education and training for acupuncture be nationally or internationally accredited.” On December 20, 2017 the NCQAC responded by stating that the “NCQAC voted to deny EAMAC’s request for rulemaking and voted to adopt the Advisory Opinion.”

WEAMA strongly supports the EAMAC request for rulemaking and feel that there is a need for additional public review and clarification of this significant of a scope expansion into an entirely different system of medicine. We believe that the decision by the NCQAC is in conflict with the Administrative Procedures Act. Under RCW 34.05.230 Interpretive and policy statements, it states:

- (1) An agency is encouraged to advise the public of its current opinions, approaches, and likely courses of action by means of interpretive or policy statements. Current interpretive and policy statements are advisory only. To better inform and involve the public, an agency is encouraged to convert long-standing interpretive and policy statements into rules.

EAMAC recently met on March 2, 2018 and discussed the fact that the NCQAC turned down their request for rule making. They were informed by Joyce Roper, the Assistant Attorney General representing the EAMAC, that it was too late to file an appeal. Under RCW 34.05.330(3) “If an agency denies a petition to repeal or amend a rule submitted under subsection (1) of this section, the petitioner, within thirty days of the denial, may appeal the denial to the governor.” The EAMAC did not have a public meeting to conduct business between the time period of December 20, 2017 and March 2, 2018 and was unable to file an appeal to the Governor for rulemaking within 30 days.

East Asian Medicine Advisory Committee ([EAMAC](#))

The EAMAC met on March 2, 2018 in Kent this month. A number of WEAMA members attended the meeting and were able provide feedback on agenda items and work on the rulemaking for the EAMP/Acupuncture WACs.

- NURSING CARE QUALITY ASSURANCE COMMISSION (NCQAC) ADVISORY OPINION – The committee will be presented a copy of the NCQAC response on the advisory opinion on Medical Acupuncture: Scope of Practice for Advanced Registered Nurse Practitioners. (see comments above regarding this issue)
- POINT INJECTION THERAPY - The committee will be given a copy of the letter from the Department and Pharmacy Quality Assurance Commission referencing the statutory authority for East Asian medicine practitioner’s (EAMP’s) to purchase injectable substances from wholesale pharmacies.

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- RULES WORKSHOP – The department will be reviewing chapter 246-803 WAC to begin the rule drafting process. The rules writing process is open to the public. The public is welcome to take part in helping us write rules. Rules are also known as regulations, Washington Administrative Code, or WAC. The rule-making process includes public notices and workshops, and usually a public hearing before a rule becomes final.

Labor and Industries Pilot Project

Here is a link to the Acupuncture Pilot Project at L & I:

<http://www.lni.wa.gov/ClaimsIns/Providers/TreatingPatients/ByCondition/Acupuncture.asp>

Issues under consideration by the WEAMA Board for 2018-2019

Health Technology Assessment Program:

- Request HTA re-review the migraine headache decision.
- Set up a conference call with Josh Morse at the HTA March 16, 2018
- Submit request for a re-review of acupuncture for migraine headaches
- Possible future subjects? Low back pain?

Acupuncture Evidence Based Research

- Consider setting up a meeting with Dr. Heather Tick, University of WA Integrated Medicine, Kathleen Lumiere at Bastyr to discuss how we can coordinate research on acupuncture for use in a variety of projects:
 - Health Technology Assessment
 - Health Care Authority
 - Bree Collaborative
 - Labor and Industries
 - Other? Include a legislator at the meeting?

Physical Therapy Dry Needling

- Mediated Discussion with PTWA on May 4th, 2018
- PT Interstate Compact with possible legislation next session.

Potential 2019 WEAMA Legislation (Under consideration only, no draft developed yet)

RCW 18.06 Update

- Legislative committee needs to review RCW 18.06 by section to see if it needs updating.
- Involve Bastyr University, Seattle Institute of Oriental Medicine (SIOM) and Middle Way Acupuncture Institute to assure that what they are teaching is in our scope of practice.
- Clarify what EAMP licensure hours should be to pass the NCCAOM test in statute.

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- Work with Bastyr to develop a dual licensure path for other profession to practice acupuncture.
- Determine whether Continuing Education (CE) make sense for EAMPs and what that would look like.
- Other?

Medicaid Pilot Project

- Consider bill based on the Governor's opioid bill, HB 2489 that failed to pass during the legislative session related to alternatives to opioids.
- Set up meeting with the Health Care Authority, Sue Birch new assistant secretary, Charissa Fotinos and MaryAnne Lindeblad to discuss options.
- Decide whether to pursue legislatively with other professions i.e. Chiropractors, PTs, Massage Therapists (PTs interested)
- Research other states who offer Acupuncture in their Medicaid program, get legislation or authority used as a model for WA State.
- Find data on the cost of an opioid addicted patient.