



## **2021 Legislative Session Report** *Florida Occupational Therapy Association*

### **Occupational Therapy Coverage for State Employees**

[\(SB 2500\)](#) – *Approved by the Governor*

Every Legislative Session, we must work to include in the budget and protect occupational therapy coverage for state employees. Entering budget conference, we were well positioned with language protecting coverage included in both the House and Senate proposed budgets. For the fifth year in a row, we successfully worked with the House and Senate budget chairs, to include language providing this benefit to state employees in the final budget as passed.

Not only did we continue to protect occupational therapy coverage for state employees, but this year, language was added in the budget to require the health plans providing state employee benefits to amend their contracts to allow for service delivery through telehealth.

### **Occupational Therapy**

*(HB 543 / SB 990)*

The scope of practice for occupational therapy has not been updated in over two decades. We worked extensively over the last two years to thoughtfully draft updates to the scope of practice for occupational therapy in order to modernize the language and reflect current practices. Prior to the start of committee weeks for the 2021 Legislative Session we secured sponsors for the bills – Representative Traci Koster and Senator Jennifer Bradley. We additionally vetted the language with House and Senate staff and reviewed the language with key personnel from the Department of Health and Board of Occupational Therapy. We filed the bills early, allowing us ample time to move them through the committee structures in both the House and Senate.

Even with significant prep work and due diligence prior to the start of a Legislative Session, issues can still arise along the way. We worked exhaustively with staff in the House to re-write the bill, and also cleared the new language with Senate staff. Along the way, we also worked with the physical therapists and orthotists to make adjustments in order to address their concerns. Finally, we had the bill signed-off by the Florida Behavioral Health Association, which represents the major mental health providers in the State.

The House bill, HB 543, passed its two committees of reference and entire House chamber unanimously. The Senate bill, SB 990, passed 2 of its 3 committees unanimously.

When our bill did not make the final Senate Appropriations Committee agenda, the last Senate committee of reference, we immediately pivoted to start finding another bill for an amendment. We spoke with the Appropriations Chair and the President's office, and no concerns were raised to us or Senator Bradley, other than they simply ran out of room on the agenda. We filed an amendment on the Senate floor to the Senate DOH bill but were asked to withdraw that amendment because the bill had not passed Appropriations yet. We then worked with House leadership to include our bill within a strike-all amendment they then did on the DOH bill, once the Senate sent it to the House.

When the House sent the DOH bill back to the Senate with the OT language, we were notified that the Senate would be removing the OT language. It was only at this point that we learned from both our sponsor, and the Senate President's office, why. The primary issue relates to technical language included within the bill referencing the Gardiner scholarship program, because OT is a covered service under the program. The Gardiner scholarship was repealed in a separate bill passed during the 2021 Legislative Session and merged into a different program, making our language problematic, despite it being added to the bill by staff. This is in addition to some concerns around the mental health language and expanded scope of practice.

We always go into Session aiming to be as prepared as possible, so we can quickly pass your legislation. Legislative Session can be unpredictable, and sometimes issues come up that we never could even imagine, despite all of the preparation. The good news is, we have made a lot of progress this year and we know exactly what needs to be addressed in the 2022 Legislative Session. The Legislature will be back in September for an early Session in 2022, so it will not be long before we can have your bills re-filed in both chambers, moving once again through the process, and hopefully on its way to the Governor by the end of the 2022 Session.

### **FY 2021-22 Budget**

[SB 2500](#) – *Approved by the Governor*

Florida entered the 2021 Legislative Session anticipating budget revenue shortfalls between \$5 to 6 billion and bracing for significant budget cuts as a result. However, due to an increase in tourism and associated revenues, as well as an influx of federal funding associated with Medicaid and education, the Florida Legislature passed the largest budget in the state's history, totaling over \$101.5 billion. The FY21-22 budget is \$9.2 billion higher than the current fiscal year's budget and additionally includes a record amount for state reserves. In addition, Florida received \$10.2 billion in federal stimulus funds from the Coronavirus State Fiscal Recovery Fund in the American Rescue Plan. Of those funds, the Legislature outlined how \$6.7 billion will be spent.

The largest portion of the FY 2021-22 budget is spent on health care. The total, \$44.5 billion, is approximately \$5 billion more than last year. Of that amount, \$33.7 billion is associated with Medicaid. Early in the Legislative Session, both the House and Senate proposed significant budget cuts for Medicaid. These cuts were extensive and ranged from deep cuts to hospital rates and reduced coverage for people ages 19-20 in the House proposal, to elimination of

coverage for vision, optometric, hearing, podiatric and chiropractic services in the Senate proposal. Due to federal approval of increased Medicaid funding for Florida, totaling over \$400 million, all of the proposed cuts were restored and there were no budget cuts to the health care budget. The increased federal funding is expected to remain in place at least through the remainder of the year.

### **Maternal Health Outcomes**

[HB 1381](#) – *Passed*

HB 1381 was a priority of House Speaker Chris Sprowls to help address disparities in maternal health outcomes. The bill, as passed by the Legislature, authorizes the Closing the Gap (CTG) grant program under the Department of Health's (DOH) Office of Minority Health and Health Equity to fund projects aimed at decreasing racial and ethnic disparities in severe maternal morbidity and other maternal health outcomes. The bill additionally adds maternal health programs to existing community-based programs the DOH must coordinate.

Regarding telehealth, HB 1381 creates a telehealth minority maternity care pilot program in Duval and Orange Counties, to help expand the capacity for positive maternal health outcomes. The pilot must utilize telehealth and coordinate with prenatal home visits to provide services and education, as well as provide training to health care practitioners and other perinatal professionals. Funding will come from the CTG program, and the state will seek additional federal grant funding. The bill has not yet been sent to the Governor, but he will have 15 days to sign or veto upon receipt.

Also, included within the budget and the corresponding health care conforming bill ([SB 2518](#)), the Legislature opted to expand Medicaid coverage for postpartum mothers from 60 days to 12 months. This was an initiative again led by House Speaker Chris Sprowls, recognizing the importance of providing health care services during those key months for both the mother and baby. The effort will cost \$240 million, with approximately \$89 million in state funds and an additional \$151 million in federal funds.

### **COVID-19 Business Liability Protection**

[\(SB 72\)](#) – *Approved by the Governor*

Entering the 2021 Legislative Session, House and Senate leadership, as well as the Governor, made it a priority to pass legislation to provide COVID liability protections against lawsuits for businesses who took proactive measures to safeguard employees and consumers. As originally filed, both the House and Senate had two separate bills addressing COVID-19 liability, one for businesses and another for health care providers. Those bills were ultimately merged and passed as SB 72. The bill ultimately provides liability protection for health care providers for claims related to diagnosing or treating a person for COVID-19, providing new or experimental COVID-19 treatment, transmitting COVID-19, or delaying or canceling surgery or medical procedures. The legislation was made retroactive to the start of the pandemic and limits cases to be brought within 1-year.

## **Emergency Management**

[\(SB 2006\)](#) – *Approved by the Governor*

SB 2006 includes numerous provisions meant to help Florida in addressing pandemic or other public health emergencies. The Department of Health will be required to create a state public health emergency management plan, and the Division of Emergency Management (DEM) must incorporate that plan into the state's comprehensive emergency management plan. DEM must additionally maintain an inventory of state-owned PPE and have an emergency shelter plan in place to address sheltering during a pandemic that requires distancing. Transparency measures are put in place at the Executive level by limiting emergency orders to 60-days unless renewed, requiring the Governor to provide specific reasons for closing schools or businesses and to reassess those closures, and allowing the Legislature to terminate orders and directives issued under state of emergency.

At the local level, ordinances must be narrowly tailored to address a compelling public health or safety purpose and emergency orders can only last for 7-days, with the option to renew up to 5 times. The Governor will have the authority to invalidate local orders that place unnecessary restrictions on individuals. Additionally, COVID-19 vaccination documentation cannot be required to access, enter, or receive service from a business, governmental entity, or educational institution. Those same entities cannot require Floridians to provide proof of vaccination or post-infection recovery but can utilize screening protocols.

## **Agency for Persons with Disabilities**

[\(SB 2500\)](#) – *Approved by the Governor*

During the 2020 Legislative Session, SB 82 was passed and signed into law to make improvements to the Medicaid Home and Community-Based Services Waiver (iBudget). The legislation was aimed at improving the quality of services provided, standardizing agency processes, and creating long-term savings. The Legislature also included \$30 million to help address the more than 20,000 Floridians with developmental disabilities on a wait list to receive services through the program.

In the 2021 Legislative Session, the Legislature focused its attention on increasing funding for the iBudget program in order to reduce the waitlist of people seeking services. The FY 2021-22 budget includes over 3-times the amount of funding from the previous year, totaling \$95 million, which will help approximately 2,100 people with intellectual and developmental disabilities.