

LeadingAge Tennessee 2019 Legislative Report



**Some of the attendees of LATN 2019 Day on the Hill pictured with Governor Bill Lee, 2/19/19**

The first session of the 111th Tennessee General Assembly adjourned on May 2, 2019. It was full of many new faces, including a new Governor and cabinet. Lots of changes were made, especially to House committees, and in the end more than expected are coming with the scandal that confronts House Speaker Glen Casada (R-Franklin).

### **The State Budget**

The Constitution gives a newly elected Governor an additional month to present his budget, and Governor Bill Lee took advantage of that opportunity presenting his first budget to the public the week of March 4<sup>th</sup>.

As originally introduced, the \$38.6 billion FY 20 budget had a significant focus on education initiatives, addressing teacher pay, student choice and student safety. Also included were workforce development initiatives, additional funds to address the opioid crisis, new and expanded mental health services, new rural initiatives and the start of some investments in criminal justice reform. Additionally, Governor Lee proposed a significant investment in the state's Rainy-Day Fund. The budget reflected a 1.1% growth from FY 19, strategic reductions of \$42 million recurring, an elimination of the small gym tax and no new debt.

As the legislative committees finished reviewing the original budget, the Governor presented his administration's amendment to the budget. The amendment included some additional initiatives in education, mental health, criminal justice and economic and community development. Governor Lee also included \$5.6 million in grants to non-profits across the state tasked with improving the lives of Tennesseans. Included in this set of appropriations were several pet projects of members of the House and Senate, who were friendly to Governor Lee's initiatives.

The House and Senate Finance Committees worked diligently on the budget and, as always, left their own mark. By the time the budget was complete, the legislature had recognized another \$95 million in revenues and funded legislative initiatives of \$79 million while leaving approximately \$15 million available for next fiscal year. Included in the General Assembly's initiatives were a tax cut to the professional privilege tax for 15



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licensed professionals, funding of the Katie Beckett waiver proposal for the care at home of children who would otherwise be at risk of institutionalization, providing recurring funding for 75% of the direct service professional wage for workers caring for the intellectually and developmentally disabled, and funding additional grants to non-profits and legislation favored by members of the House and Senate.

### **Alzheimer's Disease and Related Dementia Advisory Council**

Sen. Rusty Crowe (R-Johnson City) and Rep. Sam Whitson (R-Franklin) passed legislation this session creating a new advisory council for Alzheimer's and dementia on behalf of the Alzheimer's Association. The council is required to develop and submit an Alzheimer's state plan that identifies barriers to Alzheimer's Disease care and best practices to address gaps in service. The report will be submitted to the Commission on Aging and Disability in January of 2020. **The council is made up of various interested parties including a seat specifically for a representative of Leading Age Tennessee.** It is [Public Chapter 364](#).

### **Elderly Abuse and Vulnerable Adult Protection Act of 2019**

In following with legislation of a similar title in recent years, SB1039/HB909, introduced by Sen. Todd Gardenhire (R-Chattanooga) and Rep. Kelly Keisling (R-Byrdstown), sought to update portions of the law dealing with elder abuse. It creates new criminal offenses for knowingly abusing, neglecting or sexually exploiting an elderly or vulnerable adult and expands the definition of 'neglect' to include the failure of a caregiver to make a reasonable effort to protect an elderly or vulnerable adult from abuse or sexual exploitation. The legislation adds persons convicted of abuse, aggravated abuse, or sexual exploitation of an elderly or vulnerable adult be placed on the registry maintained by the Department of Health. It also creates new offenses for aggravated abuse and sexual exploitation of an elderly or vulnerable adult and changes the felony classification of some of the current offenses for knowingly abusing an elderly or vulnerable adult.

This bill creates a new offense for abusing an elderly or vulnerable adult and (a) the abuse results in serious psychological injury or serious physical harm; (b) the abuse involves the use of a deadly weapon or strangulation; or (c) the abuse results in serious bodily harm.

It also creates a new offense for knowingly sexually exploiting an elderly or vulnerable adult and classifies it as a class A misdemeanor. In addition, the legislation expands the people who are authorized to petition for an order of protection for an elderly or vulnerable adult to include a conservator, agent or employee of the TCAD, attorney ad litem, and the adults themselves.

The bill passed unanimously in both the House and the Senate.

### **Public Guardianship**

Sen. John Stevens (R-Huntingdon) and Rep. Sabi Kumar (R-Springfield) passed SB711/HB686 this legislative session. The bill allows the executive director of the Commission on Aging and Disability to request the district public guardian to serve as a conservator for disabled persons who are younger than 60 years of age with no family or others to help. The law formerly only allowed these requests to be made for disabled persons 60 years of age or older. It became [Public Chapter 230](#).



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### **Elder Abuse Task Force**

SB199/HB240, sponsored by Sen. Richard Briggs (R-Knoxville) and Rep. Dale Carr (R-Sevierville), created the Elder Abuse Task Force to assess financial exploitation of elderly and vulnerable adults. The task force, run by the Commission on Aging and Disability, will consist of 10 non-legislative members and will meet quarterly. It is similar to a task force that was previously convened.

### **Punishment of Specific Offenses Against Elderly Adults**

SB265/HB257, sponsored by Sen. Roberts (R-Springfield) and Rep. Mary Littleton (R-Dickson), now specifies in the law that it is a felony offense for any person or entity to knowingly and willfully falsify or omit information or make false statements regarding medical assistance benefits. The bill passed unanimously in both the House and the Senate and is [Public Chapter 417](#).

### **Tennessee Medical Cannabis Act**

Sen. Janice Bowling (Tullahoma) and Rep. Ron Travis (R-Dayton) introduced SB486/HB637 to establish a framework for access to medical cannabis on a regulated basis for patients with qualifying conditions. Rep. Bryan Terry (R-Murfreesboro) and Sen. Steve Dickerson (R-Nashville) also introduced SB1066/HB120 regarding medical cannabis. Patients would have to possess a valid medical cannabis card in order to possess or use medical cannabis products. Patients with qualifying conditions or qualifying caregivers would be allowed the cards. Both pieces of legislation failed to advance early in the legislative session.

### **Block Grants**

The Tennessee General Assembly began the 2019 session talking about the importance of block grants. This was largely in response to the 2018 election cycle where health care and the federal government's involvement were hot topics. The Trump administration has been talking about block grants and Governor Lee spoke about block grants in his successful campaign.

The appeal of block grants to states is the ability to take the money from the federal government while getting flexibility from federal "strings" like prohibitions on co-pays and mandated benefits and mandate drug formularies. The appeal of block grants to the federal government is the ability to limit the federal government's financial exposure by capping the amount states receive at a "base year" and then any increases in costs are borne by the state budget and not the federal budget.

The House of Representative moved first and passed a bill with little detail. The legislation left more questions than answers but required that any negotiated agreement must come back to the General Assembly for final approval before it could be implemented. Most believed that would be the best opportunity to impact the agreement.

The Senate took a more deliberate approach and laid out a structure of what items in the traditional block grant the state would/could not agree to in negotiations. For example, the Senate legislation requires that any federal financial participation be indexed to medical cost inflation and growth in the covered population. Further, the Senate bill required a review of the state's labor costs associated with the Medicare wage index which most in Tennessee believe is unfair to Tennessee providers and artificially reduces the reimbursement level for Tennessee providers. Additionally, the Senate legislation requires a maintenance of effort and precludes a



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reduction in the federal share of the program. Lastly, the Senate version requires maximum flexibility from federal requirements, both current and future, and has language specifically addressing pharmacy benefits and serving other needy populations.

In the waning days of the legislative session, the House and Senate could not agree on the specifics of the legislation and a conference committee was created. The report was finalized and agreed to on the final day of the session. It contained all the Senate provisions mentioned above and added the House's requirement for approval by the Tennessee General Assembly.

As passed, the TennCare Bureau will submit a waiver amendment seeking a block grant funding mechanism to CMS within 180 of the effective date of the act as required by the legislation. Following that submission there will be a 30-day federal comment period for CMS to receive and review comments from the general public on the waiver as submitted. If CMS agrees to let Tennessee operate a Medicaid block grant the level of flexibility CMS allows will be critical to reaching an agreement. The great unknown is whether CMS will agree to an innovative approach with Tennessee.

### Public Chapters

The public chapters are accessible via <https://sos.tn.gov/division-publications/acts-and-resolutions> by number or subject matter. You can also search a bill via <https://wapp.capitol.tn.gov/apps/mybills/Login.aspx>

### Looking ahead

With the House Speakership in question at this time, it is difficult to know what the leadership of the House will look like in 2020. However, the business of the General Assembly will continue in preparation for its return on January 14, 2020.

***LeadingAge Tennessee appreciates the great work and support from Lobbyist Meagan Frazier and her team at Harris Frazier Government Relations.***



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