

# Legislative Update – 2019

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# 2019 Florida Legislature

3,571 BILLS/PCBS FILED

2,997 AMENDMENTS FILED

3,765 VOTES TAKEN

202 BILLS PASSED BOTH CHAMBERS

Next Session January 2020

Committees start in September

# 2018 Florida Legislature

3,250 BILLS/PCBS FILED  
2,721 AMENDMENTS FILED  
527 COMMITTEE MEETINGS  
2,853 BILLS SEEN IN COMMITTEE  
40 FLOOR SESSIONS  
200 BILLS PASSED BOTH CHAMBERS

Next Session March 2019



# 2019 Florida Legislature

## What passed

How do things get done in  
Tallahassee?

# 2019 Florida Legislature

## What passed

### HEALTH CARE ISSUES

Speaker Oliva says will be a priority

Certificate of Need Repeal - Done

Ambulatory Surgical Center - Done

Telehealth - Done

Health Care Package - Done

Non Compete Agreements/Void - Done

Access to Primary Care - Done

Fail First/Step Therapy - Done

Tax and Charitable Exemption – Not Done

Mergers and Acquisitions – Not Done

# 2019 Florida Legislature

## What **didn't** passed

- Uniform Adult Guardianship Jurisdiction Act
- Surviving Successors Bill for Bank Accounts
- POLST
- Protection for Vulnerable Investors Bill
- Attorney compensation in probate and trust matters



# 2019 Florida Legislature

## What passed - in passing

- Hospital Licensure
- Importation of Prescription Drugs
- Telehealth
- Medical Marijuana
- Aging Programs
- Alzheimer's Disease
- Mental Health
- Wireless Communications While Driving



# 2019 Florida Legislature

## What to look forward to

- March 2019
- Electronic Notarization
- Electronic Wills





# 2019 Florida Legislature

## What passed - in detail

- Dependent Children
- Electronic Legal Documents
- Florida ABLE Program
- Retroactive Medicaid



# 2019 Florida Legislature

## What passed - in detail

- **Dependent Children**
  - Jurisdiction for guardianship proceedings for a child in a dependency action – residence or county with jurisdiction of dependency case.
  - Court can receive GAL reports and notice  
GAL

# 2019 Florida Legislature

## What passed - in detail

- Florida ABLE
  - Last year we discussed a 1 year change for recovery of Medicaid services against ABLE accounts.
  - “Section 11 of chapter 2018-10, Laws of Florida, is repealed.”
  - ABLE Accounts will flip to probate estates and standard estate recovery laws apply.



# 2019 Florida Legislature

## What passed - in detail

- Retroactive Medicaid
  - Until last year 90 days from application date, provided eligible
  - Last year was supposed to be 30 days, but was only made to first of month of application
  - SB 192 which would have made this permanent failed..... BUT.....



# 2019 Florida Legislature

## What passed - in detail

- Retroactive Medicaid
    - They kicked the can for another year.
- SB 2502 extended for another year:

## Senate Bill 2502/Enrolled

Chapter 409.904, Florida Statutes. Optional payments for eligible persons.—

The agency may make payments for medical assistance and related services on behalf of the following persons who are determined to be eligible subject to the income, assets, and categorical eligibility tests set forth in federal and state law. Payment on behalf of these Medicaid eligible persons is subject to the availability of moneys and any limitations established by the General Appropriations Act or chapter 216.

(12) Effective July 1, 2019, the agency shall make payments to Medicaid-covered services:

(a) For eligible children and pregnant women, retroactive for a period of no more than 90 days before the month in which an application for Medicaid is submitted.

(b) For eligible nonpregnant adults, **retroactive to the first day of the month in which an application for Medicaid is submitted.**

This subsection expires July 1, 2020.



# 2019 Florida Legislature

## What passed - in detail

- Electronic Legal Documents
  - The third time was the charm
  - WOW

# Electronic Legal Documents



- HB 409
- 78 Page Bill
- Third year proposed
- Combined electronic notarization with estate planning



# Electronic Legal Documents




Can electronically (not on paper but in a digital format) execute legal documents (deeds, wills, trusts, powers of attorney, HCS, Living will)... AND...

# Electronic Legal Documents

The Notary and Witnesses can appear remotely (not in the room) via audio-video technology. Think Face Time, Skype, Zoom, etc..... WOW.

# Electronic Legal Documents



Elder Law Section had LOTS of problems with this.

Opposed the first 2 years.

Ended up supporting this Bill.

# Electronic Legal Documents

- Removed Vulnerable Adults
- Removed some powers under a DPOA
- Recording of process
- Clerks can be Custodians

# Electronic Legal Documents

- Specific questions to identify a vulnerable adult
- A warning must be read
- Other questions to test capacity

# Electronic Legal Documents



- Technology requirements set by Dept. of State
- Insurance coverage
- If video cannot be produced treat like lost will

# Electronic Legal Documents

- Still a lot to do with rule-making by State
- Effective Jan 1, 2020

# 2020 Session



## STARTS EARLIER

Committee Meetings in September  
Session January – March 2020

## ISSUES:

Guardianship Rewrite

Uniform Jurisdiction - Guardianship

Slayer Statute - Exploitation

Vulnerable Investors

Surviving Successors

Medicaid Retroactive

Rothman Fix

Injunction (2018) Revisions?



# Other Updates

- Not much on the Federal side
- New HUD-ABLE memo dated April 26, 2019



# Thank You

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