**TNOTA Legislative Report January 16, 2022**

AOTA State Affairs continues to monitor state responses to the COVID-19 pandemic. The National Academy of State Health Policy (NASHP) has recently published several resources linked below:

* [COVID-19 vaccine mandates and passports](https://www.nashp.org/state-lawmakers-submit-bills-to-ban-employer-vaccine-mandates/)
* [School vaccine mandates and mask mandates](https://www.nashp.org/states-enact-policies-to-support-students-transition-back-to-school/)
* [COVID-19 public health emergency declarations and mask requirements](https://www.nashp.org/governors-prioritize-health-for-all/)
* [COVID-19 action center](https://www.nashp.org/covid-19-action-center/)

**Current news from Tennessee**

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| --- | --- | --- |
| **Agency Name:**  |  Department of Health/Bureau of Health Licensure and Regulation/Division of Health Related Boards/Board of Occupational Therapy  |   |
|  **Title:**  |  Rules Governing the Practice of Occupational Therapy  |   |
|  **Proposed:**  |  05/25/2021  |   |
|  **Adopted:**  |  10/12/2021  |   |
|  **Summary:**  |  Amends rules regarding qualifications for licensure and continued competence.  |   |
|  **Agency Contact:**  |  Lara E. Gill, Senior Associate Counsel, Board of Occupational Therapy, 665 Mainstream Dr, Nashville, TN 37228, 615-741-1611, **Lara.Gill@tn.gov**  |   |
|  **Citation:**  |  TAC 1150-2-.4, .12  |   |
|  **AOTA Summary:**  |  This proposal amends the introductory paragraph of the Board's continuing education rules related to the required number of hours per renewal cycle and when the renewal cycle begins. The proposal also adds a requirement for all licensees to complete a minimum of two hours of suicide prevention training at least once every 4 years in accordance with law. Rule has been adopted and goes into effect on January 10, 2022.  |   |

\*\***Tennessee Board of Occupational Therapy** met Thursday, January 13, 2022 in Nashville. One item of discussion was the proposed rules regarding Dry Needling.

To view the livestream, please follow the link below.

https://tdh.streamingvideo.tn.gov/Mediasite/Play/ca65fb2b473447ebb924945212101eb61d

**AOTA Advocating for You — 2021 in Review**

Heather Parsons
12/20/2021

2021 was a year like no other when it came to advocating for the profession of occupational therapy on Capitol Hill. Congress entered uncharted territory in dealing with the political and emotional aftermath of January 6th. New Members of Congress began serving in a Capitol shut to visitors, with much of the work conducted virtually as Congress wrestled with how best to operate during a pandemic and how to support the nation and our health and education systems.

Against this backdrop AOTA Federal Affairs continued its work, advocating for federal policies to improve access to occupational therapy services, support those who need occupational therapy services, and ensure fair reimbursement for those services. As always, the power of occupational therapy to truly impact the people’s lives not only motivated us but opened the doors—or Zoom rooms—of offices on Capitol Hill.

Here are some of our successes in 2021 and where work continues:

**Home Health Services:** At the end of 2020, Congress passed legislation allowing occupational therapists to permanently open home health cases for physical therapy, speech language pathology, and occupational therapy cases. The goal of this legislation was to raise the profile of occupational therapy in home health and increase opportunities in this setting. In November, 2021, [the Centers for Medicare and Medicaid Services (CMS) finalized the rule for this change](https://www.aota.org/Advocacy-Policy/Federal-Reg-Affairs/News/2021/Home-Health-Medicare.aspx), officially making it a permanent part of home health services.

**Schools and Early Intervention:** At the beginning of 2021, COVID was still causing major disruption to the provision of pediatric services, so AOTA led the effort to secure COVID funding specifically for the Individuals with Disabilities Education (IDEA) Act to address the challenges the COVID-19 public health emergency presented for students with disabilities. It was especially important to secure supplemental funding for early intervention services, as Congress failed to provide any additional funding during the pandemic to support efforts to help children from birth to 5 with a disability or those at risk for a developmental delay. [When Congress passed the *American Rescue Plan* (ARPA)](https://www.aota.org/Advocacy-Policy/Congressional-Affairs/Legislative-Issues-Update/2021/American-Rescue-Plan-IDEA.aspx), AOTA was thrilled to see $3 billion in supplemental funding for the IDEA, including nearly half a billion dollars for early intervention services.

**Home- and Community-Based Services:**The COVID-19 pandemic brought attention to the crucial issues of improving home- and community-based services for adults with disabilities. [Significant money was provided in ARPA](https://www.aota.org/Publications-News/otp/Archive/2021/capital-report-reform-update.aspx) to improve these services through State Medicaid agencies. In addition to these actions, Congress spent the year trying to develop a long-term path forward to help make community-based services the norm, and not the exception. AOTA worked with Congressional champions to help shape future legislation to improve these services.

**Older Adults Home Modification Program (OAHMP) through the Department of Housing and Urban Development (HUD):** In March, HUD released a long-awaited funding opportunity for the provision of “low-cost, low-barrier, high impact home modifications” to allow homeowners to better age in place. OAHMP specifically requires the involvement of a licensed occupational therapist or supervised occupational therapy assistant to ensure the modifications utilize a person-centered approach that improves the home owner’s ability to function safely within their home. [In August, HUD award 32 grants to community organizations, including AOTA partner organizations](https://www.aota.org/Advocacy-Policy/Congressional-Affairs/Legislative-Issues-Update/2021/HUD-older-adult.aspx). This program was first funded by Congress in 2018 after AOTA advocacy efforts.

**Medicare Reimbursement Challenges:**Due to changes to the Medicare Physician Fee Schedule and Congressional budgeting requirements, [OT services under Medicare Part B were facing a 9.75% cut in 2022 and Part A services were facing a 6% cut](https://www.aota.org/Advocacy-Policy/Congressional-Affairs/Legislative-Issues-Update/2021/Ask-Congress-To-Act-On-Payment-Cuts.aspx). AOTA fought alongside a powerful coalition of health care providers to prevent these cuts. Thanks to persistent advocacy, Congress reduced and phased in these cuts. In January there will be no reduction to Part A services but there will be a phase in to a 2% reduction by July 2022. Similarly, OT services under Part B will reduced by 0.75% in January, phasing into a 2.75% reduction by July. AOTA continues to work with our coalition partners to pressure Congress to make changes to the budgeting gimmicks that are responsible for 6% of these reductions and to address issues with the Medicare Physician Fee Schedule that are responsible for the arbitrary 2.75% reduction to Part B OT services.

**Supporting Occupational Therapy Assistants:** [Congressional champions introduced the *Stabilizing Medicare Access to Rehabilitation and Therapy* “SMART” Act (H.R. 5536)](https://www.aota.org/Advocacy-Policy/Federal-Reg-Affairs/News/2021/protecting-otas-medicare.aspx) to reduce the impact of a 15% reduction to occupational therapy assistant services under Medicare Part B, beginning in 2022. The bill would help to reduce this impact by delaying the cuts until 2023, permanently exempting rural and underserved areas from the reductions, and reducing overly restrictive Medicare supervision requirements in private practice settings.

**Allied Health Workforce Diversity:**The *Allied Health Workforce Diversity Act* (H.R. 3320/S. 1679) was once again introduced in the new Congress. This bill would help increase opportunities to train occupational therapy practitioners from underrepresented backgrounds. The House Energy and Commerce Subcommittee on Health [passed the *Allied Health Workforce Diversity Act*](https://www.aota.org/Advocacy-Policy/Congressional-Affairs/Legislative-Issues-Update/2021/AOTA-Board-Member-Testimony-Allied-Health-Workforce-Diversity-Act.aspx), after AOTA Board Member Victoria Garcia Wilburn testified before the subcommittee on the bill. The bill should be voted on early next year in the House of Representatives and will then move on to the Senate for consideration.

**Behavioral Health:** COVID-19 highlighted the continuing need to improve behavioral health services. In 2021, four different pieces of legislation related to behavioral health were introduced that included occupational therapy, including:

* The *Primary and Behavioral Health Care Access Act* (HR 3550)
* The *Mental Health Professionals Workforce Shortage Loan Repayment Act* (H.R. 3150/ S. 1578)
* The *Mental Health Workforce and Language Access Act* (H.R. 5937)
* The *HEALTH for Mom Act* (S. 1622).

Additionally, the House Energy and Commerce Committee recognized the value of OT in behavioral health by fixing an issue where only master’s-level programs could apply for Behavioral Health Education Workforce Training Grants. [The new legislative language would allow OTD programs to apply for funding through this program](https://www.aota.org/Advocacy-Policy/Congressional-Affairs/Legislative-Issues-Update/2021/Congress-Shows-Value-OT-Mental-Health.aspx) as well.

**Medicare Telehealth:** [Legislation to permanently allow occupational therapy services to be provided via telehealth under Medicare](https://www.aota.org/Advocacy-Policy/Congressional-Affairs/Legislative-Issues-Update/2021/Bill-ReIntroduced-Permanent-Telehealth.aspx), the *Expanded Telehealth Access Act*, was re-introduced in the House of Representatives in March and [introduced for the first time in the Senate this November](https://www.aota.org/Advocacy-Policy/Congressional-Affairs/Legislative-Issues-Update/2021/Senate-Introduction-Expanded-Telehealth-Access-Act.aspx), marking an important gain of Senate support for the legislation. Congress has introduced multiple bills to either extend many of the COVID-19 telehealth waivers, or make them permanent, including the [*Telehealth Extension Act* (H.R. 6202)](https://www.aota.org/Advocacy-Policy/Congressional-Affairs/Legislative-Issues-Update/2021/Legislation-Introduced-to-Extend-Telehealth-Waivers.aspx) which would extend the ability of occupational therapy practitioners to provide Medicare services by telehealth for 2 years after the end of the public health emergency, and the *Telehealth Modernization Act*, which would give the Secretary of Health and Human Services the authority to permanently add OT telehealth services under Medicare.

**HHS Office of the Assistant Secretary for Preparedness and Response (ASPR):**AOTA has long worked to build a relationship with the Department of Health and Human Services (HHS) to emphasize the role of occupational therapy in disaster preparedness and response. This division of HHS has been coordinating with AOTA related to OT’s role in the COVID pandemic and included an article about [the role of OT in COVID in their April newsletter](https://files.asprtracie.hhs.gov/documents/aspr-tracie-the-exchange-issue-13.pdf). This relationship continues and has expanded into opportunities to discuss the larger role of OT in emergency preparedness and response.

**NIH-Wide Rehabilitation Research Plan:** The [finalized 5-year plan for NIH-wide rehabilitation research](https://www.aota.org/Advocacy-Policy/Congressional-Affairs/Legislative-Issues-Update/2021/NIH-Rehabilitation-Research-Plan-Opportunities-For-Occupational-Therapy.aspx) prominently referenced the importance of addressing the occupation-related needs of millions of Americans. This plan was developed as a result of [AOTA-championed legislation passed in 2016](https://www.aota.org/Advocacy-Policy/Congressional-Affairs/Legislative-Issues-Update/2016/21st-Century-Cures-Victories-for-Occupational-Therapy.aspx). This plan should help open opportunities for more occupation- and disability-based research at the NIH, which will, in turn, open doors for advancing innovative occupational therapy services.

**Your Advocacy Makes the Difference**

Without the ability to meet face to face with Congressional offices, your voice was more powerful than ever in helping to advance these issues. This year, more than 7,600 of you wrote or called your Member of Congress through AOTA’s Legislative Action Center, sending more than 32,000 communications to Capitol Hill. Fifteen percent of these were sent during AOTA’s Fall Advocacy events, resulting in 41 new co-sponsors of our legislation— the main way legislators indicate their support of an issue. Our success and progress would not be possible without your advocacy efforts.

AOTPAC also played a crucial role. AOTPAC supports candidates for federal office who support occupational therapy, including current Members of Congress, and can only solicit funds from AOTA members. Through AOTPAC we can build and strengthen relationships with Members of Congress who support our issues. At the time of this writing, AOTPAC was on-track to meet its 2021 goal of raising $150,000 thanks to the contributions of more than 1,600 individuals.

Thank you for your support of these efforts. Together we will continue our work to expand and protect access to occupational therapy services in 2022.

Source:

<https://www.aota.org/Advocacy-Policy/Congressional-Affairs/Legislative-Issues-Update/2021/Advocacy-Year-In-Review.aspx>

**\*\* Possible advocacy efforts in the near future:**

**Humana Requiring Prior Authorization for OT, PT, and SLT Beginning January 1, 2022**

AOTA has been made aware that beginning January 1, 2022, Humana will begin requiring prior authorization for OT, PT, and SLT via Cohere, a utilization management company. This will impact almost all of Humana’s commercial and Medicare Advantage lines of business, with some exceptions.  AOTA staff attended a presentation by Cohere that included an overview of their program and a demonstration of their prior authorization portal.  Practitioners need to be aware that although Cohere markets their program as a musculoskeletal utilization management program, practitioners must submit **all** diagnoses for prior authorization.  Please review the following resources for more information: [the announcement from Cohere](https://mailchi.mp/ae0ca01c73cd/new-at-cohere-product-updates-policies-and-top-tips-5242749?e=9c51d315a4), Cohere’s [Provider Knowledge Center](https://coherehealth.zendesk.com/hc/en-us), and the [Prior Authorization List [CPT©] Codes Under Management](https://coherehealth.com/wp-content/uploads/2021/10/Cohere-Clinical-Scope-for-2022.docx-2-1-1.pdf) Effective January 1, 2022. If you have any questions or concerns regarding Cohere and/or Humana, please email Julie Lenhardt, AOTA’s reimbursement and regulatory policy manager, at jlenhardt@aota.org.  If there is enough interest, AOTA may be able to arrange for Cohere to present an overview of their program to occupational therapy state associations.