

Legislative Update

ASPPB Annual Meeting of Delegates

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Federal Issues

The Patient Bill of Rights passed in the U.S. Senate. This bill includes a legal accountability provision and “mental injury” in its definition of patient injury. The bill affords patients the right to sue their health providers. The bill allows non-economic damages to be awarded to plaintiffs who successfully sue their managed care providers and use of psychologists on external review panels. The bill will now go to the House.

This year legislation has been presented in both the House and Senate to prohibit insurance discrimination against mental health care. The passage of the bill would eliminate insurers from arbitrarily limiting the number of hospital days or outpatient treatment sessions, or the use of higher co-payments or deductibles for people in need of mental health care. This bill was written to expand the Mental Health Parity Act of 1996, which is due to sunset on September 30, 2001, unless new legislation is passed.

A bill (S.67) was presented in the Senate to amend Title VII of the Public Health Service Act to establish a psychology post-doctoral fellowship program. The bill has been referred to the Committee on Health, Education, Labor, and Pensions.

Senate bill S.62 was read twice in the Senate and has been referred to the Committee on Veterans’ Affairs. The bill is to amend Title 38 U.S. Code, to revise certain provisions relating to the appointment of professional psychologists in the Veterans Health Administration. It would remove the requirement that psychologists appointed to the Veterans Health Administration of the Department of Veterans Affairs hold degrees in psychology from an approved accrediting authority.

Health centers are beginning to work toward compliance with the privacy requirements of the Health Insurance Portability and Accountability Act of 1996. The implementation deadline is April 14, 2003. The rules require certain privacy rules regarding patients’ health information. The privacy rules create requirements pertaining to the disclose of protected health information, require health care providers to get assurances that business associates to whom health information is revealed will protect the information, grant patients certain rights regarding their health information, and set up civil and criminal penalties for violations.

Prescription Privileges

In 2001, legislation to give psychologists prescription privileges was presented to the legislatures of 9 states, Connecticut, Georgia, Hawaii, Illinois, Louisiana, Missouri, New

Mexico, Tennessee and Texas. The Bills failed in all states. However, the success of the New Mexico bill should be recognized. The New Mexico bill passed in the state house, making New Mexico the first state to pass a psychology prescription bill out of a legislative chamber.

Currently, psychologists do not have prescription privileges in any state or province. In 1998, the U.S. territory of Guam enacted legislation that grouped psychologists with physician assistants as “allied health professionals” which afforded them limited prescription privileges. To date, no psychologist has applied for these prescribing rights.

Note also that nurse practitioners, who are allowed prescription privileges in 14 states, sought prescription privileges in Mississippi and Florida during the 2001 legislative sessions. The bills failed in both states. However, five states did pass legislation allowing pharmacists to initiate or modify medications.

Somewhat related legislation was passed and signed into law in Connecticut. Known as the Ritalin Law, the law prohibits, school counselors, teachers, and other school personnel from recommending that a child be prescribed psychiatric drugs. The law is intended to assure that the first mention of drugs for a behavior or learning problem comes from a medical doctor.

E-Health

Texas has new legislation that requires state health officials to establish a telemedicine pilot program to enhance health care services in medically underserved areas along the Texas/ Mexico border.

The Attorney General of Oklahoma issued an opinion affording the Oklahoma Board of Dentistry jurisdiction to regulate the practice of an out-of-state dentist who practiced dentistry in Oklahoma via the Internet. Other state Attorneys General have drafted similar opinions.

Various U.S. State Legislation

Arkansas Board of Examiners in Psychology has introduced a bill to amend the requirements for Psychological examiners. The bill amends the qualifications from requiring a master’s degree in psychology or closely related field to require two academic years of graduate training in psychology.

Legislation passed in Idaho that amended the disciplinary rules of the Board of Psychologist Examiners. The new legislation will allow the board to employ “other discipline options.” It also allows the board to assess fines and recover cost of a disciplinary hearing from accused licensees.

Legislation passed in Texas that will require the Board to create and maintain a profile on each psychologist that provides educational information, years of experience, past crimes, disciplinary actions, etc. The board is required to make this information available to the public.

Legislation is pending in Ohio that will criminalize sexual conduct between a mental health professional and his or her client. The purpose of this bill is to prohibit mental health professionals from engaging in sexual conduct with their mental health patients. Under the bill, a first time violation of this act would be considered a misdemeanor of the first degree and a second violation of the act would be a felony in the fourth degree. If a licensee is found guilty of engaging in sexual impropriety, the licensing board is required to suspend or revoke the license; and the names of psychologist found guilty of sexual impropriety and other misconduct must be published on the Internet. The bill also would require 3 patient advocates, who are not psychologist, who are parents or other relatives of a person who has received or is receiving mental health services, to be members of the licensing board. The bill is currently in the State Senate Judiciary, Criminal Justice Division.

Legislation passed in Minnesota that modifies grounds for disciplinary action, increases the amount of civil penalties, and allows the board to recover costs for disciplinary actions. The new legislation also provides a seven-year limitation period for complaints against licensees. The law prohibits the board from instituting a proceeding unless it is begun within seven years from the date of the alleged misconduct. However, there are a few exceptions to the limitations period that are specified in the law.