

LEGISLATIVE UPDATE
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U.S. FEDERAL LEGISLATION

Mental Health Equitable Treatment Act, Mental Health Parity S.543

This bill was drafted to strengthen and build upon the Mental Health Parity Act of 1996 that was due to expire on September 30, 2001. The new parity bill will be considered this congressional term. The major goal of the bill is to provide parity between mental health benefits and those for medical and surgical care.

State reaction to the Mental Health Equitable Treatment Law

Since the implementation of the 1996 parity law, 32 states have enacted their own legislation to mandate mental health parity in health insurance.

Patient Bill of Rights

Last year both the Senate and House passed a patient bill of rights. The two versions of the bills were not identical. Thus, a committee was formed to iron out the differences of the bills. Once the conference committee convenes and drafts compromise legislation, that legislation will be sent to both the House and Senate for a vote.

State reaction to the Patient Bill of Rights issue

Several states already have their own patient bill of rights. This past year **North Carolina, Washington, West Virginia and New Jersey** passed legislation to protect patients' rights.

Post Terrorism Mental Health Improvement Act S.1729

This bill was drafted to lead to better advance planning, preparedness and training of mental health professionals to treat specific mental health needs that arise from disasters. The bill provides grants for state and local public entities to develop programs and establishes a mental health clearinghouse. The Senate voted in favor of this bill and the bill has been sent to the House.

Rural Preventive Health Care Training Act of 2001 S.69

This bill would amend the Public Health Service Act to provide health care practitioners in rural areas with training in preventive health care, including both physical and mental care. An eligible practitioner may receive grants to obtain additional training, to increase staff support, to create innovative programs, and for other purposes determined appropriate.

Amendment to Social Security Act

This amendment relates to the scope of practice of psychologists and social workers. This amendment to the Social Security Act would remove the restriction that a clinical psychologist or

clinical social worker working in a comprehensive outpatient rehabilitation facility provide care only to patients under the care of a physician.

Health Insurance Portability and Accountability Act (HIPAA)

On December 27, 2001, President Bush signed into law H.R. 3323, the Administrative Simplification Compliance Act. This law provides for a one year extension of the date for complying with the HIPAA standard transactions and code set requirements to Oct 16, 2003 for any covered entity that submits to the Secretary of Health and Human Services a plan of how the entity will come into compliance with the requirements by October 16, 2003.

State reaction

The **Vermont** legislature has passed what officials say are the most stringent personal information protection rules in the country.

CANADIAN LEGISLATION

Personal Information Protection & Electronic Documents Act

This act governs the collection, use, disclosure of, and access to personal information in the private sector. The act applies to personal health information beginning as early as 2002 for some entities and is to cover all private sector by January 2005.

Privacy of Personal Information Act

This act is **Ontario's** response to the federal Personal Information Protection & Electronic Act. If the provinces do not enact their own personal information protections, the federal act will apply. The proposed act is not stronger than Ontario's code of ethics, but only is to require consistency among psychologists.

Health Professions Act

The Health Professions Act is currently pending in **Alberta**. This act is an umbrella professional legislation that covers the admission to and practice of health professions, including Psychology. This legislation will replace Alberta's psychology act. This year **Ontario** will draft new rules to amend its psychology act.

U.S. FEDERAL E-HEALTH LEGISLATION

Medicare and Telehealth Acts of 2001

The goal of this legislation is to improve the provision of telehealth services under the Medicare program. It provides grants for the development of telehealth networks, and other related ventures. There is also legislation to amend the Social Security Act to expand Medicare coverage to include some telehealth psychotherapy services.

Rural Mental Health Accessibility Act of 2001 S.859

This bill calls for the establishment of a mental health community education program in rural areas. The bill affords grants to rural communities for the creation of such programs. Eligible entities may obtain grants to establish interdisciplinary training programs that include

significant mental health training. It also calls for a study on the efficacy and effectiveness of mental health services delivered remotely by a “qualified mental health professional (psychiatrist or doctoral level psychologist) using telehealth technologies.”

STATE LEGISLATION

E-HEALTH

Dentistry

Oklahoma’s Attorney General issued an opinion letter that provides that the Oklahoma’s Board of Dentistry can assert the right to regulate out-of-state individuals who practice dentistry in Oklahoma over the Internet.

Veterinary Medicine

Idaho has a new law that amends the veterinary medical practice code to include “electronic practice” in the definition of “practice” for licensed and unlicensed veterinarians. There is a bill in **South Carolina** that, if passed, would include telemedicine in the practice of veterinary medicine.

Pharmacists

Montana has new legislation that revises the Pharmacy Practice Act. Within the revisions is a provision which authorizes the board to adopt rules that would allow pharmacists licensed in another jurisdiction to register to practice telepharmacy across state lines.

Physician Assistants

A new law in **Nebraska** defines supervision for physician assistants to include contact with the supervising physician by telecommunications.

Practice of Medicine

A new law in **New Mexico** amended the definition of “the practice of medicine across state lines” to include: the rendering of a medical opinion or rendering of treatment to a patient within the state by a physician located outside the state by transmission of patient data by electronic, telephonic or other means.

North Carolina has a new law that authorizes the North Carolina Medical Board to require any person treating a patient by use of the Internet or a toll-free number to obtain a license in the state and to permit the board to bring an action for injunctive relief against nonresidents failing to do so. There is also a bill in **Pennsylvania** that if passed would require a full license for the practice of telemedicine within the state by out-of-state physicians. A new law in **West Virginia** amends the medical practice act to include the practice of telemedicine as engaged in the practice of medicine in the state and makes such practice subject to the licensure requirements.

CRIMINALIZATION OF SEXUAL ACTS

A bill was introduced in **Pennsylvania** that makes sexual intercourse with a patient a misdemeanor. Sexual intercourse with a patient during the ongoing patient/psychologist relationship, or within two years after the termination of the relationship, is forbidden.

MOBILITY

Certificate of Professional Qualification in Psychology (CPQ)

Connecticut, Idaho & Missouri

A new law in **Connecticut** endorses licenses from states with requirements similar to Connecticut's. A license by endorsement is also afforded CPQ holders. **Idaho** now accepts the CPQ and has a new law that grants a license to "senior psychologist" (a psychologist who has been licensed for 20 years, practiced for five out of the last seven years and has compiled with continuing education requirements). Due to a new law, **Missouri** now accepts the CPQ.

Maryland, Michigan, New Hampshire, New Mexico & Rhode Island

Through an amendment to their state rules **Maryland, Michigan, New Hampshire, New Mexico & Rhode Island** now accept the CPQ.

Arizona and South Dakota

Legislation to accept a CPQ has been introduced in **Arizona** this year and is expected to be introduced in **South Dakota**'s legislature.

SCOPE OF PRACTICE

Master's Level Professionals

A bill in the **Arkansas** House that would have afforded "psychological examiners" (master's level licensure) the right to practice independently after three years of one hour per week face-to-face supervision by a psychologist was introduced, but did not pass in 2001. However, the bill was sent to a committee and is currently under study by the committee.

A new law in **Kentucky** allows "licensed psychological practitioners" (master's-level professionals) to practice independently if the licensed psychological practitioner has undergone supervised practice for five years, passed the EPPP and oral examination, and provides endorsements by a supervisor and two licensed mental health professionals.

Use of the Title "Psychologist"

The **Florida** legislature removed an exemption to the use of the title "psychologist." Before this amendment, there were certain exceptions that allowed non-psychologists, such as master's level professionals, to use the title psychologist in certain situations. Now only doctoral level psychologists may employ the title "psychologist."

A bill was introduced in **New York** that defines the practice of psychology and clarifies who is entitled to employ the title “psychologist.” Under the bill only board licensed psychologists may employ the title “psychologist,” “psychology” and “psychological.”

Psychological Exams

A scope of practice related law passed in **Georgia** that amends a statute to provide that when the mental condition of a person held in custody is in question, the court may order a mental examination and that examination can be administered by a psychologist. Prior to the amendment the statute read that a physical or mental examination had to be completed by a physician.

Single Level Licensure

A new law in **Tennessee** will create a single level licensure. The new law will phase out dual level licensure. The law allows “psychological examiners” (master’s level professionals) to upgrade their license to “senior psychological examiner,” through post-licensure requirements. After 2004, Tennessee will no longer issue the license “psychological examiner.”

Certified Psychology Resident

A new law in **Utah** gives postdoctoral supervisees a formal board certification called “certified psychology resident.” In order to enter a residency program of supervised clinical training, a resident must become certified with the psychology board as a psychology resident.

PRESCRIPTION PRIVILEGES

Nine States

2001 was the year of the highest number of prescription privileges legislation. Nine states (**Connecticut, Georgia, Hawaii, Illinois, Louisiana, Missouri, New Mexico, Tennessee, & Texas**) introduced such bills.

New Mexico, Tennessee & Georgia

New Mexico became the first state to pass a psychology prescription privilege bill out of a legislative chamber when the bill passed in New Mexico’s House. This year, New Mexico’s Governor has placed the psychologists’ prescription privilege bill on the legislative agenda. This session is a short session reserved for appropriation bills. Also, as of late, in 2002, bills that would afford prescription privileges are pending in **Tennessee** and **Georgia**.

PRESCRIPTION PRIVILEGES OF OTHER PROFESSIONS

Optometrists

Bills were introduced and ultimately defeated in several states that would allow optometrists to treat glaucoma. Although all states allow optometrists to prescribe therapeutic medications, almost half the states do not allow optometrists to prescribe controlled substances to treat glaucoma.

Nurse practitioners

Currently, fourteen states allow advanced-practice nurses to independently prescribe controlled substances. In 2001, bills in **Maryland**, **Mississippi**, and **Florida** that would have given advanced practice nurses prescription authority failed.

Pharmacists

Legislation that will allow pharmacists the right to modify prescriptions after physician collaboration passed in **Idaho**, **Louisiana**, **Nebraska**, **Ohio**, and **Tennessee**. Currently, 34 states allow collaborative practice arrangements.