STATE BEAT: PSYCHOLOGY LEADERS ADDRESS LETTERS ON 90837 AND ADVOCATE FOR TESTING DATA

Psychologists in Maine, Pennsylvania and New Hampshire take a stand on legal and regulatory issues that impact the profession.

By Hannah Calkins

Maine

A Maine trial court judge has ruled to uphold a statute that protects neuropsychological and psychological test data, according to Sheila Comerford, executive director of the Maine Psychological Association (MePA).

The victory came on May 19, about a month after a Maine psychologist informed MePA that opposing counsel had requested the judge to compel him to turn over a patient’s record, including raw test data, to the court. (The judge would then decide whether to release the record to opposing counsel.)

The request was a challenge to a 2013 law MePA championed that prohibits the disclosure of raw neuropsychological or psychological test data and materials to anyone but another psychologist.

In response, MePA contacted APA Practice Organization’s Legal and Regulatory Affairs (LRA) staff, who supplied MePA and the psychologist with support and materials to oppose the request.

MePA was successful: The judge ultimately denied the request, citing that the 2013 law was sound and allowed for no exceptions. The opposing counsel also decided not to appeal this decision, Comerford reports.

Pennsylvania

Leaders from the Pennsylvania Psychological Association (PPA) are collaborating with Highmark – a large insurer based in Pittsburgh – to address concerns regarding Highmark’s monitoring of the use of current procedural terminology (CPT) code 90837 (psychotherapy, 60 minutes with patient).

Rachael Baturin, MPH, JD, who is director of legal and regulatory affairs at PPA, reports that in the summer of 2016, some members began receiving letters from Highmark that seemed to be attempting to deter them from using CPT 90837. These letters were addressed to psychologists who allegedly used 90837 at a high rate compared to other psychologists in the network.

Some psychologists feared they would be targeted for an audit, though Highmark maintains that the letters were meant to be “educational” rather than threatening, Baturin says.

In response, PPA and the Practice Organization’s LRA staff contacted Highmark, which confirmed that the letters were truly intended to be educational, not punitive. They also said they do not presume that a more frequent use of 90837 involves inappropriate billing, according to Connie Gallietti, JD, LRA’s director of legal and professional affairs.

Since then, PPA has been working with Highmark to change their practices regarding CPT 90837. Highmark has asked for input in how to change the tone of their letters and how to better understand the practice settings in which the code might apply.

Baturin says that PPA is communicating this update to members, and will continue to monitor the letters that Highmark sends regarding CPT 90837.

New Hampshire

People in New Hampshire who wish to change how their gender is listed on their identification cards must file a “Change of Gender Designation” (PDF, 49KB) form with the Department of Motor Vehicles (DMV). A health care provider’s signature is required to certify the form and the provider must check a box indicating the kind of provider they are – and there is no box for psychologists, according Leisl Bryant, PhD, ABPP, the executive director of the New Hampshire Psychological Association (NHPA). The form only recognizes physicians, APRNs, clinical social workers and clinical mental health counselors.

“The letters were meant to be ‘educational’ rather than threatening.”

– Rachael Baturin, MPH, JD
Bryant says that this was brought to NHPA’s attention over a year ago when a member reported he was unable to complete the form for his patients. Since then, leaders and members of NHPA have been engaged in an effort to add psychologists to the form by writing letters, sending emails and repeatedly contacting the director of the DMV. NHPA has been told by the director’s office that their communications have been received, and that “someone” will be in touch.

“The response from the DMV has been disappointing so far, but we continue to see this as an important issue and are committed to finding resolution,” Bryant says. She is working with the Practice Organization’s LRA staff to coordinate an approach.

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