Navigating the New Landscape of Professional Practice

Friday, August 7, 2015
1:00 – 1:50 PM

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Jo Linder-Crow, PhD
Luana Bossolo
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How Legal & Regulatory Affairs Helps Psychology Navigate the New Landscape

Shirley Ann Higuchi, JD
Associate Executive Director
Legal & Regulatory Affairs
APA Practice Directorate/Practice Organization
The Navigation Challenge: Helping psychologists find their way in a changing health care world

• How will psychologists – mostly small practices – compete in the changing health care world of larger players?

• A world that values ability to: integrate, use EHR systems, measure outcomes

• Can psychologists form ACOs? IPAs? Other models? What models fit psychology? What are 1st steps?
The Navigation Challenge cont’d

• Can psychologists achieve economies of scale and bargaining power but keep their independent practices?

• What is the role of psychology in serving the millions of new patients in expanded Medicaid?

• What changes with Insurance, Telehealth Technology & Scope of practice?
Legal & Reg’s Initiatives in Response

1. Finding viable alternative practice models & Challenging integration barriers
2. Multi-State Regional Summits
3. Challenging Medicaid Barriers to Psychological Services
4. ACA Insurance Issues
5. Telehealth & Technology
6. Scope of Practice
   Defend and expand
Alternative practice models & Challenging integration barriers

- Our 50-state research identified states with laws preventing multi-disciplinary professional corporations & LLCs
- We helped states with legislation to break down those corporate practice barriers, e.g., RI, CT, NJ & NY. But still have 17 states with a total barrier
- Identified practice models that work around the barriers in those states:
  - Independent practice association (IPA) and management services organization (MSO)
Alternative Practice Models (APMs)

• Worked with legal experts to identify a spectrum of APMs viable for psychology - and antitrust guidance for joint fee negotiation by APMs

• Models range from basic first steps any practice can take (co-location, referral network) up to large complex models like MSO – “an IPA on steroids”

• MSO: allows independent practices to join forces for best of both worlds: economy of scale & bargaining power -- but keep your own business autonomy
Alternative Practice Models cont’d

• APM resources/guidance are for those psychologists who *want* to change or consider changing their practices

• If you are late career or otherwise don’t want/need to change, we are also here to support you continuing what you’ve been doing
Multi-State Regional Summits

• May 2015: Pilot 4-state regional Summit in NYC on the “nuts & bolts” of APMs and integration

• Collaborated with NYSPA, NYSAN (neuropsychology) and state associations for CT, PA and NJ.

• Brought together experts who are health psychologists, neuropsychologists, MDs, payors, health lawyers and risk managers
Multi-State Regional Summits, cont’d

• Pilot sold out in advance → Rave reviews → Demand for more Summits

Future Regional Summits
• Chicago – June/July 2016
• DC – Spring 2016?
• Los Angeles? Texas?

• Recording of Pilot in NYC on sale at NYSPA.org, but we’ll develop refined/expanded recordings from 2016 Summits
• Other guidance: APAPO’s Good Practice magazine (Fall 2014) and Practice Update E-newsletter (4/30/15 antitrust article)
Removing Barriers to Psychological Services in Expanding Medicaid systems

- Medicaid expansion now in 31 states (including DC, 6 additional states considering) → Medicaid population already increased to almost 70 million

Current Status of State Medicaid Expansion Decisions

NOTES: Under discussion indicates executive activity supporting adoption of the Medicaid expansion. *AR, IA, IN, MI, and PA have approved Section 1115 waivers. Coverage under the PA waiver went into effect on January 1, 2015, but the newly-elected governor may opt for a state plan amendment. Coverage under the IN waiver is set to begin February 1, 2015. NH has submitted a waiver to continue their expansion via premium assistance. WI covers adults up to 100% FPL in Medicaid, but did not adopt the ACA expansion.

Medicaid Barriers cont’d

- Medicaid population has substantial unmet mental health needs
- Behavioral health interventions by psychologists could improve the physical health of this population and save huge medical costs by addressing behavioral bases of chronic diseases like diabetes, obesity and hypertension
Results of our 50-state research:

• Every state is different.
• But few states are without barriers to psychologists fully serving this very needy population
• Only 12 states allow psychologists to bill in independent practice and also bill H&B codes.

Because Medicaid issues are state specific, we’re identifying target states & collaborating with the state’s psychological association
Latest Initiatives:

- Missouri – Training requirement for H&B codes
- DC – Independent practice
- In each jurisdiction, we’ll address other barriers, especially intern reimbursement

Other current target states:

NC, OR, MD

Prior support of states on Medicaid issues includes:
OK, MN, MO
Resources to support Medicaid initiatives

• Legal Reg has collaborated with the Education Directorate to hire a Fellow to help Legal Reg identify and overcome barriers to intern reimbursement, as well as the other barriers

• Intern initiative: helps with intern crisis while training a workforce to serve the expanded Medicaid patient population
ACA Insurance Issues

New Risk Adjustment Audits under Affordable Care Act (ACA)

• Totally new kind of audit that ACA compels insurers to conduct → Problems with HIPAA, recordkeeping & consent

• Persuaded Anthem BCBS and Minnesota BCBS companies to accept our solutions and comply with state confidentiality laws

• Another Audit success: Abusive audits of psych and neurospsych testing by Santé Analytics

• Got Anthem to fire Santé, stop audits & accept refund requests
Other Insurance Advocacy

- Complaints re Mental health parity/rate cuts
- Neuropsychology advocacy
- Insurance Exchanges, e.g., Healthy CT
- Transparency of Medical Necessity Criteria
- Class Action Lawsuits
Telepsychology

• Joint APA/ASPPB/The Trust Task Force developed the *APA Guidelines for the Practice of Telepsychology* (2013)

• APA Practice has collaborated in stakeholder meetings in development of ASPPB’s PSYPACT (interstate compact for telepsychology & temporary, in-person practice across state lines)

• Tracking state and federal telehealth policies including insurance mandates

• Representation in American Telemedicine Association’s Telemental Health Special Interest Group
Technology

• Input to SAMHSA and other federal agencies on making electronic health records (EHRs) workable and suitable for psychology

• Evaluating EHRs, cloud storage, practice management software and mobile apps.
Protecting and expanding psychologists’ scope of practice

• Providing resources (e.g., 50-state legal reviews & advocacy tools) and consultation to members and SPTAs on:
  – Psychological testing
  – Applied behavioral analysis & Other Masters-level issues
  – Prescriptive authority

• Supporting new practice areas for interested psychologists:
  – Hospitals and other inpatient settings
  – Integrated care/health psychology
  – Parenting coordination
In addition to the new issues, we still help members navigate the old ones:

- Subpoenas, testimony & court interaction
- Release of records to patients
- HIPAA and patient privacy
- Duty to warn/protect
- Abuse reporting
- Prescriptive authority
- Hospital practice
- Recordkeeping
- Licensing board complaints
- Professional Wills
5 Point Approach on All of Our Issues

- **Analysis**: How does the law/issue impact practicing psychologists?
- **Advocacy**: A spectrum of efforts to fix or improve the situation
- **Collaboration & Advice**: with SPTAs and other partners
- **General Member Guidance**
  - Articles in APAPO’s *Good Practice and Practice Update* (Over 20 LRA articles last year)
- **Individual Member Guidance**
  - Hundreds of member calls & emails
Thank You!

For Further Information or help on any of these issues, members can contact:

PracLegal@apa.org

Or (202) 336-5886
The State of Advocacy

Jo Linder-Crow, PhD
CEO, California Psychological Association
CAPP Member

Daniel J. Abrahamson, PhD
Associate Executive Director
State Advocacy
APA Practice Directorate
A Wide Range of SPTAs with a Wide Range of Needs

- Memberships range from 40 members (South Dakota) to 4,000 members (California)
- Some have full time Executive Directors/CEOs and some are managed by an Association Management Company or part-time person
- Some are a one-person shop and some have a staff
APAPO Gives Us Help When We Need It

- Licensing laws are at the state level, but it helps us in our decision-making to know what other states are doing.

- Information from APAPO helps us serve as resources in our state.

- Legal challenges are beyond what we can do alone—we need help.

- Technology can be leveraged when shared.
APAPO Grants to SPTAs

For the purpose of improving practice conditions for psychologists

- Grants are administered by CAPP
- Organizational grants to support infrastructure of SPTA
- Legislative grants to allow growth and to protect the profession
- Emergency grants for unforeseen needs
Recent History

• From 2008-2014 there have been nearly 300 grants awarded, for a total of more than $3,000,000

• In 2014, there were 44 grants totaling $480,000
Serving SPTAs: Annual APAPO Grants

Funding level maintained for 2015

- Organizational development, legislative, emergency and Canadian
- $250,000 awarded in organizational development grants to 23 SPTAs
- $185,000 will be awarded in legislative grants
Serving SPTAs: Annual APAPO Grants

Funding level maintained for 2015

- $15,000 awarded to Council of Professional Associations of Psychologists (CPAP) to support advocacy in the Provinces.
- Up to $30,000 awarded in emergency grants
Serving SPTAs: 2013 APAPO Grant Examples

**Georgia**
- Pursuing efforts to defend scope of practice regarding psychological assessment.

**Kentucky**
- Ensuring parity in private insurance and Medicaid.

**Minnesota**
- Ensuring psychologists’ role in behavioral health homes.

**Vermont**
- Supporting the inclusion of psychologists in legislative process during Vermont’s consideration of a Single Payer Plan.
<table>
<thead>
<tr>
<th>State</th>
<th>Issue</th>
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<tbody>
<tr>
<td>Florida</td>
<td>Protecting psychologist scope of practice in applied behavioral analysis.</td>
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<tr>
<td>Illinois</td>
<td>Implementing IL’s new prescriptive authority law.</td>
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<tr>
<td>Louisiana</td>
<td>Pursuing legislation to assure that psychologists can diagnose ADHD in schools.</td>
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<tr>
<td>North Carolina</td>
<td>Ensuring the maintenance of an independent psychology board and parity in autism insurance coverage.</td>
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Medicaid: State-Specific Programs

- Addressing barriers to participation a high priority for CAPP and the APAPo:
- 16 states bar psychologists completely
- Reluctance/refusal to cover health and behavior (H&B) codes
- Restrictions on to whom, how often, and location where psychological services can be provided
- Limited recognition of independent provision of services
- Prohibitions on reimbursing students/interns
- Low reimbursement rates
- Limits on same day billing
Sometimes We Need the Big Guns

• APAPPO has partnered with several states to bring legal action against insurance providers

• Legal and regulatory staff offer analysis and guidance on issues affecting psychology, such as new practice models for psychologists

• Staff also is readily available for consultation on a multitude of questions that we have at the state level
Together—Making a Difference!
Public & Physician Perception of Psychology

Luana Bossolo
Associate Executive Director
Public Relations
APA Practice Directorate
Methodology

• Surveys conducted in 2014 & 2011

• 1,304 adults aged 18+ who reside in U.S. (2014)
• 1,204 adults aged 18+ who reside in U.S. (2011)

• 300 physicians (2014 & 2011)
Favorability of psychology - Public

Favorability of the psychology profession has increased since 2011. Nearly three in ten adults view psychology very favorably.

**2014 (A)**
- Very favorably: 54%
- Somewhat favorably: 28%
- Somewhat unfavorably: 13%
- Very unfavorably: 4%

**2011 (B)**
- Very favorably: 22%
- Somewhat favorably: 53%
- Somewhat unfavorably: 18%
- Very unfavorably: 7%

BASE: ALL QUALIFIED GEN POP RESPONDENTS (2014 N=1304; 2011 N=1204)
Q18 In general, how favorably do you view psychology as a profession?
Mental health professional referrals

Ever Received Treatment from a Psychologist or Mental Health Professional

- **Yes**: 32%
- **No**: 66%

**BASE**: ALL QUALIFIED GEN POP RESPONDENTS (2014 N=1304)

**Q33** Have you ever received treatment or therapy from a psychologist or other mental health professional?
Mental health professional referrals

Types of Mental Health Professionals Referred To

- Psychologist: 17%
- Psychiatrist: 13%
- Licensed Counselor: 9%
- Marriage and Family Therapist: 5%
- Social worker: 5%
- Certified alcohol or drug abuse counselor: 3%
- Psychiatric Nurse Practitioner: 3%
- I was never referred for psychological services by my doctor: 65%

BASE: ALL QUALIFIED GEN POP RESPONDENTS (2014 N=1304)

Q34B If you were referred by your current primary care physician for psychological services, what kind of processional were you referred to?
Favorability of psychology - Physicians

BASE: ALL QUALIFIED PHYSICIAN RESPONDENTS (2014 N=300; 2011 N=303)

Q18 In general, how favorably do you view psychology as a profession?

- **2014 (A)**
  - Favorably (Net): 92% (40% very favorably, 52% somewhat favorably)
  - unfavorably (Net): 8% (7% somewhat unfavorably, 2% very unfavorably)

- **2011 (B)**
  - Favorably (Net): 87% (38% very favorably, 49% somewhat favorably)
  - unfavorably (Net): 13% (8% somewhat unfavorably, 5% very unfavorably)
Helpfulness of psychologists when assisting patients

**Psychologists’ Helpfulness in Assisting with Various Conditions**

<table>
<thead>
<tr>
<th>Condition</th>
<th>% Extremely or Very Helpful</th>
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<tbody>
<tr>
<td>Depression</td>
<td>72%</td>
</tr>
<tr>
<td>Anxiety</td>
<td>70%</td>
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<tr>
<td>Post Traumatic Stress Disorder (PTSD)</td>
<td>68%</td>
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<tr>
<td>Stress management</td>
<td>67%</td>
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<tr>
<td>Substance abuse</td>
<td>64%</td>
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<tr>
<td>Eating disorders</td>
<td>63%</td>
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<tr>
<td>Serious mental illness</td>
<td>57%</td>
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<tr>
<td>Assessment of cognitive function</td>
<td>55%</td>
</tr>
<tr>
<td>Lifestyle and behavior change</td>
<td>55%</td>
</tr>
<tr>
<td>Pain management</td>
<td>35%</td>
</tr>
<tr>
<td>Management of chronic disease</td>
<td>31%</td>
</tr>
<tr>
<td>Pre-surgical evaluation</td>
<td>8%</td>
</tr>
</tbody>
</table>

**BASE: ALL QUALIFIED PHYSICIAN RESPONDENTS (2014 N=300; 2011 N=303)**

**Q38A** How helpful do you think a psychologist would be when it comes to assisting your patients with the following?
**BASE: ALL QUALIFIED PHYSICIAN RESPONDENTS (2014 N=300; 2011 N=303)**

**Q46** What is your preferred model for working with a psychologist?

*New in 2014*
On-site psychologists

Similar to 2011, one in five physicians say they have an on-site psychologist at their practice.

% with an On-site Psychologist

BASE: ALL QUALIFIED PHYSICIAN RESPONDENTS (2014 N=300; 2011 N=303)

Q39 Do you have an on-site psychologist at your practice?
Types of health care professionals commonly referred

Types of Health Professionals Patients Are Commonly Referred to by Physicians

- Physical therapist: 85%
- Other specialty physician: 81%
- Psychologist: 68%
- Registered dietitian: 62%
- Occupational therapist: 51%
- Other health care professional: 40%
- Chiropractor: 20%
- None of these: 1%

BASE: ALL QUALIFIED PHYSICIAN RESPONDENTS (2014 N=300)

Q37 To which of the following types of health professionals do you commonly refer your patients?
Common reasons for referrals

- Depression: 86%
- Anxiety: 79%
- Serious mental illness: 70%
- Substance abuse: 63%
- Stress management: 51%
- Post Traumatic Stress Disorder (PTSD): 50%
- Lifestyle and behavior change: 32%
- Assessment of cognitive function: 32%
- Pain management: 30%
- Eating disorders: 25%
- Management of chronic disease: 15%
- Pre-surgical evaluation: 3%
- ADD/ADHD: 1%
- I don't make referrals to mental health professionals: 1%

BASE: ALL QUALIFIED PHYSICIAN RESPONDENTS (2014 N=300)

Q38 What are the most common reasons you refer patients to mental health professionals?
Reasons for not referring patients to psychologists

BASE: ALL QUALIFIED PHYSICIAN RESPONDENTS THAT DO NOT REFER ANY PATIENTS TO PSYCHOLOGISTS (2014 N=57)

Q45B You said that you do not refer any of your patients to psychologists for treatment of psychological/behavioral factors that impact physical illness. What is your main reason for not referring to psychologists?

Note: Responses less than 3% not shown.

Caution: Small base size
How APAPO’s Government Relations Office Is Working to Advance Professional Practice

Doug Walter, JD
Associate Executive Director
Government Relations
APA Practice Directorate
Current Issue Areas

- Medicare
  - Psychologist Payment
  - Access to Psychologists’ Services
  - PQRS
  - Integrated Care
- Federal Mental Health Funding
- Medicaid
- Health Care Reform
  - Affordable Care Act
  - Telehealth
  - Prevention
  - Obesity
- Federal Health Program Psychologist RxP
- Greater Public Good
  - Gun Violence
  - MIOTCRA
APAPO GR: Legislative Advocacy 2015 Priorities

- Improve access to care by adding psychologists to Medicare “physician” definition (“Medicare Mental Health Access Act”)
- Improve Medicare payments for psychologists
- Make psychologists eligible for electronic health record keeping incentive payments
- Rep. Murphy Serious Mental Illness Bill, H.R. 2646, the “Helping Families in Mental Health Crisis Act”
Reasons You Should Care About Medicare

- Medicare is the single largest health insurance program in the country, covering more than 45 million Americans and spending more than half a trillion dollars a year.

- With the aging of the baby boom generation, Medicare’s beneficiary population is getting larger every day.
More Reasons to Care

- Medicare’s coverage policies set the trend for the private sector, and Medicare’s reimbursement rates heavily influence private sector reimbursement rates.

- Medicare’s CPT/RUC process helps set the framework for private sector reimbursement practices and definitions.
Figure 1-2  Medicare is the largest single purchaser of personal healthcare, 2013

Total = 2.5 Trillion

- Medicare: 22%
- Medicaid: 17%
- Private health insurance: 34%
- Out of pocket: 14%
- Other third-party payers and programs
- DoD and VA: 4%

Today: $500 billion
By 2025-26: $1 trillion

APAPO GR: What the “Medicare Mental Health Access Act” Would Do

The term “physician” means in statute:

1. A doctor of medicine or osteopathy
2. A doctor of dental surgery or dental medicine
3. A doctor of podiatric medicine
4. A doctor of optometry
5. A chiropractor

Add:

6. A clinical psychologist

Bill XXX

To amend title XVIII of the Social Security Act to provide for treatment of clinical psychologists as physicians for purposes of furnishing clinical psychologist services under the Medicare program.

IN THE SENATE OF THE UNITED STATES

Ms. Snowe (for herself and which was read twice a Committee on Finance introduced the following bill;)

A BILL

To amend title XVIII of the Social Security Act to provide for treatment of clinical psychologists as physicians for purposes of furnishing clinical psychologist services under the Medicare program.
APAPO GR: Why Should MMHA be Enacted?

- Removing physician supervision would make it easier for patients to access services, particularly in rural areas.
- The legislation would **NOT** expand psychologists’ scope of practice — only changes in state law can do this.
- Psychologists will not be considered a “physician” in every instance the term is used— the term will only apply to services within a psychologist’s state licensure.
- Physician supervision is not required in Medicare Advantage, VA, TRICARE, or private payer systems.
APAPO GR: SGR Victory

• “Sustainable Growth Rate” formula enacted in 1997, to contain Medicare costs by adjusting provider payments to meet targets based on GDP growth, health care cost inflation.

• Congress has blocked cuts from taking effect 17 times over the years. The latest cut called for a 21% for all providers effective April 1st 2015.

• The House of Representatives passed a permanent SGR repeal with overwhelmingly bi-partisan support 392-37 on March 27th.

• This was followed by the Senate with a 92-8 vote on April 14th.

• On April 16 President Obama signed the SGR reform legislation into law.
Declining Psychologist Payments: Cumulative Change in Medicare Reimbursement Rates, 2007-2015

Source: CMS Medicare Part B Physician Fee Schedules.
Psychologists’ low Medicare payment – What we’re doing

- Working with Avalere Health to refine options for changing Medicare’s physician fee schedule, through, legislative and regulatory options
- Meeting with CMS
- Talking to members of Congress about the problem
- National Association of Social Workers
- Constituent meetings during State Leadership Conference
The HITECH Act of 2009 ("Health Information Technology for Economic and Clinical Health Act") provided $17 billion in incentives to invest in electronic health records (EHR) systems.

There were three bills in the 113th Congress to allow psychologists and other MH providers to receive Medicare incentive payments for the use of electronic health records (EHR).

Currently APAPO is refining legislation to be introduced to the 114th Congress.

- Rep. Murphy introduced and Sen. Murphy plans to introduce legislation, focused on federal funding regarding mental health
- Rep. Murphy introduced H.R. 2646, the “Helping Families in Mental Health Crisis Act”, the new legislation is wide-ranging, and touches on a variety of programs and policies
- APAPO supports this legislation
The Substance of H.R. 2646

H.R. 2646 looks to improve the federal Mental Health System through:

- Increasing access to effective care, particularly for individuals with serious mental disorders
- Increasing emphasis on mental health services
- Expanding authority for mental health services financed by Medicaid
- Eliminating the 190-day lifetime limit in Medicare for psychiatric hospital services
- Reauthorizing the Garrett Lee Smith Memorial Act and the National Child Traumatic Stress Network
- Funding the National Suicide Prevention Lifeline program
- Authorizing the Minority Fellowship Program
- Allowing Psychologists and other mental and behavioral health providers to receive Medicaid and Medicare incentives to adopt electronic health records
- Supporting research at the National Institute of Mental Health
- Improving full compliance and enforcement of the Mental Health Parity and Addiction Equity Act of 2008
If not Government Relations…

"Just because you do not take an interest in politics doesn't mean politics won't take an interest in you."
- Pericles (495-429 BC)

• The Federal Government has enormous impact on public and private spheres of health care.
• We represent practicing psychology’s voice on Capitol Hill.
• We provide an organized way for an association to support political candidates, legislation, regulations and initiatives.
For more information about the APA Practice Directorate contact practice@apa.org