



CALIFORNIA
PSYCHIATRIC
ASSOCIATION

CAPITOL INSIGHT

by Randall Hagar, Director of Government Relations

GET READY TO HELP: Psychologists seek an author for legislation to authorize their practice of medicine in California in 2017.

Several editions ago in the California Psychiatrist, I wrote about psychologists in Illinois who won the right to practice medicine by prescribing psychotropic medications (RxP) using a “physician assistant” type model.

Since then, an RxP bill introduced in Hawaii died in May 2016 after a hard fought and lengthy struggle. Killing this bill was possible because of heroic efforts of the Hawaii Psychiatric Medical Association, the American Psychiatric Association, the Hawaii Medical Association, and other mental health stakeholders. Hawaii has by far the most attempts at RxP legislation, and the stalwart psychiatrists there have defeated over 25 bills in as many years.

Another RxP bill is poised to be signed into law in Iowa at press time. After first being defeated in the Iowa House, the bill was reconsidered, and passed to the Iowa Senate. There, it was passed and sent to the Governor on April 29, 2016. There are indications that the Governor may be favorably inclined to sign the bill.

In California, the National Alliance for Professional Psychology Providers for the third time, this January, approached one of the most powerful California Senators, the Chair of the Senate Health Committee, to be the author of an RxP bill. Senator Hernandez, the Chair, is reported to have refused, as he has on two prior occasions. NAPPP sponsored two failed California RxP bills in 2007 and 2008.

Meanwhile, the California Psychological Association (CpA) is in the process of raising a \$500,000 war chest to promote an RxP bill. CpA has historically championed “full” RxP practice authority independent of physician

supervision, unlike the physician assistance model in which they must practice under protocols developed in collaboration with a physician and be supervised by that physician.

The battle for safety and quality of care will erupt in California in the near future. We will need YOUR help. In the current climate in the California Legislature, it will take a sustained effort to educate and convince legislators to see the risks in the prescribing of psychotropic medications by non-medically trained individuals.

Please help by doing the following so we can be prepared:

Three things you can do to help DEFEAT this Legislation:

- 1) Become a CPA Key Contact and work with your legislative representatives to defeat RxP
- 2) Contribute generously to the California Psychiatric Political Action Committee; and
- 3) Contribute generously to the CPA Advocacy and Litigation Fund

See below for more information. Become active in this fight!

Join CPA Key Contacts and Become Part of the CPA Team!

Key Contacts are local psychiatrist advocates working locally in coordination with CPA advocacy in the Capitol. After an RxP bill is introduced in the legislature, Key Contacts will write letters, make phone calls, visit their legislators, or may be called on write a letter to the editor or even an Op-ed. Key Contacts are a critical part of a winning strategy and their primary role is to educate at the local level. Legislators listen to constituents because they vote for them. Papers publish opinions from local



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people because those people read the papers. That matters. CPA makes it easy by providing everything you need to know how to do it. You can commit as little or as much time as it takes, but it does take some time - time well spent.

Key Contacts become part of a list serve and receive email alerts about topical events, updates on progress of a bill, news items, or Action Alerts requesting urgent action. For instance, when an RxP bill is set for hearing before a legislative committee, an alert to Key Contacts will ask for letters to the members of that committee advocating the CPA position. All of the materials you need to do your part well are in the Alert. When CPA visits offices of those same committee members in the Capitol, it is tremendously helpful if that office has already heard from their constituent - you.

To join, please fill out and return the Key Contact form in this issue to the CPA office right away.

Support the California Psychiatric Political Action Committee (CPPAC)

Your CPPAC donations fund campaign contributions to qualified candidates and office holders in the California Legislature. These contributions help to assure strong CPA relationships with legislators who understand and support the CPA mission advocating for quality patient

care. At a time such as this, CPPAC needs to educate and reach out to many legislators. CPPAC funds support legislators who support the CPA.

Please consider donating the dollar equivalent of two hours of your time to the California Psychiatric Political Action Committee.

Give to the CPA Advocacy and Litigation Fund (ALF)

ALF provides resources to the CPA for extraordinary advocacy demands, beyond usual everyday CPA advocacy. ALF funds educate legislators and the public, augment and enhance CPA lobbying efforts and enable legal action on scope of practice, patient safety, and quality of care issues. In particular, this fund has played a major role in CPA's past, successful efforts opposing psychologists' efforts to practice medicine without a medical education.

Please consider donating the dollar equivalent to two hours of your time to the CPA Advocacy and Litigation Fund.

For more information about Key Contacts, or for information or to make donations to the CPPAC or the ALF, please go to the CPA website: www.calpsych.org/advocacy

Or you may contact Lila Schmall, the CPA Executive Director by email (lila-schmall@calpsych.org), or call the CPA offices at 1-800-772-4271.

CPA Top 15 Bill List as of May 11, 2016

AB 1300 (Ridley-Thomas D – Los Angeles) Mental health: involuntary commitment. Summary: This bill provides criteria and procedures that would authorize emergency room physicians to make, continue and break 5150 holds. **Position:** Co-sponsor (with the California Hospital Association, the American College of Emergency Physicians California, and the California Association of Physician Groups) **Location:** Passed the Assembly 77-0 in on January 27. In the Senate awaiting policy committee hearing in June.

AB 1576 (Eggman D - Stockton) Mental Health Delivery Demonstration Project: Early Diagnosis and Psychosis Treatment Program. Location: In the Senate. (the language will appear in June with a new bill number) **Summary:** Would authorize health care service plans within the greater Sacramento area to require enrollees seeking services for a mental health condition to participate in a Mental Health Delivery Demonstration Proj-

ect through an Early Diagnosis and Psychosis Treatment (EDAPT) program. The bill would require plans that choose to participate to develop clinical guidelines for enrollees and to make those guidelines available as part of their evidence of coverage and to primary care providers and specialty mental health providers in their contracted network. **Position:** Sponsor

AB 1962 (Dodd D - Napa) Criminal proceedings: mental competence. Location: Awaiting hearing in the Senate Public Safety Committee. **Summary:** Would provide uniform standards of training and education for psychiatrists and psychologists who serve on superior court panels for the purposes of evaluating defendants who may be incompetent to stand trial. Uniform standards are expected to increase the completeness and quality of reports to the court and that in turn is expected to result in more appropriate referrals to the state operated hospital system for restoration of competency. **Position:** Support

AB 2403(Bloom D – Santa Monica) Alcoholism or drug abuse recovery or treatment facilities. Location: Assembly Appropriations Committee awaiting fiscal review. **Summary:** This is one in a long series of attempts to regulate sober living residences. Prior legislative attempts going back at least two decades have failed, and this bill is also likely to fail because, while proliferation and concentration of residences of this sort with 6 and fewer beds has often posed issues to neighborhoods and communities, this attempt like previous efforts violates the Federal Fair Housing Amendment of 1988. **Position: Oppose**

AB 2607 (Ting D – San Francisco) Firearm restraining orders. Location: On the floor of the Assembly awaiting a vote. **Summary: Authorizes psychotherapists to file gun violence restraining orders.** CPA and other therapist groups asked for and were excluded from authorizations to file petitions against patients in the original legislation (2014) establishing a gun violence restraining order. The reasons were many: already existing tools like Tarasoff duty to protect and the ability to seek 5150 holds are likely sufficient to address patients with firearms who may become violent. There are also issues about such authority conflicting with HIPAA; causing angry patients to terminate therapy, and not seek any other therapist; creating psychotherapist confusion in a multiplicity of choices each with unique liability concerns attached. This bill, though not mandatory, will likely have many negative, unanticipated effects. The new law has been in effect for a few short months and there is no evidence that suggests it should be fixed or modified in this way. **Position: Oppose Unless Amended** (to remove psychotherapists)

AB 2743 (Eggman D – Stockton) Psychiatric bed registry. Location: Awaiting fiscal review in the Assembly Appropriations Committee. **Summary:** Would, on or before July 1, 2017, require the State Department of Public Health to establish and administer a pilot program to create an Internet Web site-based electronic registry, known as the acute psychiatric bed registry, in specified counties, to collect, aggregate, and display specified information regarding the availability of acute psychiatric beds in psychiatric health facilities, as defined, to facilitate the identification and designation of health facilities for the temporary detention and treatment of individuals who meet specified criteria for temporary detention. **Position: Co-sponsor** (with Steinberg Institute)

SB 938 (Jackson D – Santa Barbara) Conservatorships: psychotropic drugs. Location: Awaiting fiscal review in

the Senate Appropriations Committee. **Summary:** This bill would restrict physician prescribing of psychotropic medications to patients with dementia. It is inconsistent with recently released American Psychiatric Association Treatment Guidelines for the treatment of patients with Dementia. It imposes onerous requirements on physicians who must petition a probate court for a medication order when a patient is on a probate conservatorship. **Position: Oppose Unless Amended**

SB 955 (Beall D Santa Clara) State hospital commitment: compassionate release. Location: Awaiting fiscal review in the Senate Appropriations Committee. **Summary:** Current law authorizes the release of a prisoner from state prison if the court finds that the prisoner is terminally ill with an incurable condition caused by an illness or disease that would produce death within 6 months. This bill would establish similar compassionate release provisions for a defendant who has been committed to a state hospital because, among other reasons, the defendant is incompetent to stand trial or has a severe mental disorder. **Position: Support**

SB 1006 (Wolk D - Davis) Firearm Violence Research Center. Location: Awaiting fiscal review in the Senate Appropriations Committee. **Summary:** Would enact the California Firearm Violence Research Act. The bill would declare the intent of the Legislature that the Regents of the University of California establish the California Firearm Violence Research Center to research firearm-related violence. The bill would require the university to report, on or before December 31, 2017, and every 5 years thereafter, specified information regarding the activities of the center and information pertaining to research grants. **Position: Support** (co-sponsored by the California Chapter of the American College of Emergency Physicians and the American Academy of Pediatrics, California Chapter)

SB 1033 (Hill D – San Mateo) Medical professionals: probation. Location: Awaiting fiscal review in the Senate Appropriations Committee. **Summary:** Would require every physician on probation with the Medical Board of California to inform all new patients of their probationary status. Would also require any physician subject to discipline by the Medical Board to pay the Medical Board for the costs of disciplinary proceedings which result in that physician's license being placed on probationary status. **Position: Oppose** (in close coordination with the California Medical Association and other medical specialties)

SB 1101 (Wieckowski D – Los Angeles) Alcohol and drug counselors: regulation. **Location:** Awaiting fiscal review in the Senate Appropriations Committee. **Summary:** Would prohibit a person from using the title licensed alcohol and drug counselor unless the person had applied for and obtained a license from the Alcohol and Drug Counseling Professional Bureau and would specify the minimum qualifications for a license, including, but not limited to, educational qualifications, being currently credentialed as an advanced alcohol and drug counselor, and having submitted to a criminal background check. **Position: Oppose Unless Amended** (to add education and training for co-occurring mental illness)

SB 1174 (McGuire D – Santa Rosa) Medi-Cal: children: prescribing patterns: psychotropic medications. **Location:** Awaiting fiscal review in the Senate Appropriations Committee. **Summary:** Would require the Medical Board of California to conduct on a quarterly basis an analysis of data regarding Medi-Cal prescribers and their prescribing patterns of psychotropic medications using data provided by the State Department of Health Care Services and the State Department of Social Services. Those prescribing three or more psychotropic medications to children could be subject to investigation for alleged overprescribing. **Position: Oppose Unless Amended** (to an educational instead of a discipline first approach)

SB 1177 (Galgiani D - Tracy) Physician and Surgeon Health and Wellness Program. **Location:** Awaiting fiscal review in the Senate Appropriations Committee.-S. APPR. **Summary:** Would authorize the Medical Board of California to establish a Physician and Surgeon Health and Wellness Program for the early identification of, and appropriate interventions to support a physician and surgeon in his or her rehabilitation from, substance abuse. If the board establishes a program, the bill would require the board to contract for the program's administration with a private third-party independent administering entity meeting certain requirements. **Position: Support**

SB 1195 (Hill D – San Mateo) Professions and vocations: board actions: competitive impact. **Location:** Assembly Appropriations Committee awaiting fiscal review. **Summary:** Would authorize the Director of Consumer Affairs, upon his or her own initiative, and require the director, upon the request of a consumer or licensee, to review a decision or other action, except as specified, of a board within the department to determine whether it unreasonably restrains trade and to approve, disapprove,

or modify the board decision or action, as specified. This bill unwisely concentrates power in the Director of the Department of Consumer Affairs, who may approve, deny or modify regulations or licensing board decisions governing health care professions - without any required consultation or due process procedure, thereby without any checks and balances. Thus expansion of the Director's power comes at the expense of the various licensing bodies, including the medical board and can be used to the detriment of physicians, and decisions can be made on a whim by the Director. Of special note, this measure as drafted would allow the Director to make decisions which could expand the scope of practice of non-medically trained professionals into the practice of medicine. **Position: Oppose Unless Amended**

SB 1273 (Moorlach R – Costa Mesa) Crisis stabilization units: funding. **Location:** Pending hearing in the Assembly Health Committee in June. **Summary:** This bill would clarify that the counties may use Mental Health Services Fund moneys to provide outpatient crisis stabilization services to individuals who are voluntarily receiving those services, even when individuals who are receiving services involuntarily are treated at the same facility. **Position: Support if Amended** (with the proviso that MHSA funds should not be used to discriminate based on the legal status of the person receiving services)

SB 1471 (Hernandez D – Los Angeles) Health professions development: loan repayment. **Location:** Pending fiscal review in the Senate Appropriations Committee. **Summary:** This bill would prioritize state loan repayment funding for psychiatrists. In particular, it adds psychiatrists to the list of primary care physicians making them co-equally eligible for the first \$1,000,000 in funds in the Medically Underserved Account for Physicians commonly called the Steven M. Thompson Physician Corps Loan Repayment Program. It would also require that psychiatrists would be prioritized for 50% of the funds flowing into this account in excess of \$2,000,000. In 2015, as California continued to pull out of the great recession, the amount of revenue into this fund equaled \$9.54 million. This means that psychiatrists not only compete on an equal footing for the first million dollars, but are prioritized for half of a \$7.5 million amount. These funds provide loan repayment for physicians who agree to practice in medically underserved areas of the state for a minimum of three years. **Position: Support**