CALIFORNIA PSYCHIATRIC ASSOCIATION

CAPITOL INSIGHT

The Affordable Care Act and the Reinventing of the Health Care Delivery System?

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A number of scope of practice bills were introduced in 2013, each of which promised increased access to health care services under the new benefits made available by the Affordable Care Act in 2014. Three of those bills attempted to deliver increased access by increasing scope of practice for pharmacists, nurse practitioners and optometrists. The pharmacist bill was amended with acceptable language; the nurse practitioner and optometrist bills, both of which granted an independent practice of medicine privilege without physician training or supervision by a physician, ended up all but dead in Committee by the end of session.

There has been no attempt to date to resurrect the latter two bills during 2014, which, because it is the second year of a two year legislative session, could technically be done. Vigilance will continue until the 2014 session is over on August 31, 2014. During the 5 months of active lobbying on these bills in 2013 some interesting offers in lieu of the language in these bills were put on the table by the California Medical Association, the California Psychiatric Association and others. These were rejected in turn by the sponsors and author of those three bills – which should tell you something about the real aims of these special interests.

The concepts put forward last year represent a number of ways to increase access to health by the physician community. Interestingly, a number of those ideas have resulted in 2014 legislation, and some of them contain exciting concepts if they have the Governor's signature. An incomplete list with brief descriptions is below:

AB 1759 (Pan, D-Sacramento) Medi-Cal Reimbursement Rates – would indefinitely continue the ACA temporary bump to the Medicare payment rate for California primary care physicians.

AB 1805 (Skinner, D-Berkeley) Medi-Cal Provider Payments – restores money to undo the 2010-2011 budget cuts of 10% to Medi-Cal provider rates.

AB 1838 (Bonilla, D- Concord) Medical School Accreditation – proposes to allow graduates of accelerated medical school programs (such as the newly created primary care program at UC Davis) to be eligible for licensure in California.

AB 2232 (Gray, D-Merced) University of California Medical Education – authorizes a medical school at the new UC Merced Campus and provides $1 million for a two year planning process starting in the 2014-2015 budget year and also $1.885 million during that same year and every year thereafter to expand the San Joaquin Valley Program in Medical Education (see also SB 841).

AB 2346 (Gonzalez, D-San Diego) Physician Supervision – increases from 4 to 6 the number of nurse practitioners, nurse midwives and physician assistants an individual physician may supervise.

AB 2458 (Bonilla, D-Concord) Medical Residency Grant Program – provides funds of $2.8 million for each of three years starting in budget year 2014-2015 to increase the numbers of (primarily primary care) residency training programs.

AB 2514 (Pan, D-Sacramento) California Physician Corps Program – seeks to create a federal fund-matching program to assist with loan repayments for physicians in medically underserved areas, and would serve to expand the current Steve Thompson loan repayment program which also exists to incentivize location in medically underserved areas.

SB 841 (Cannella, R-Ceres) University of California Medical Education – authorizes a medical school at the new UC Merced Campus and provides $1 million for a two year planning process starting in the 2014-2015 budget year and also $1.885 million during that same year and every year thereafter to expand the San Joaquin Valley Program in Medical Education.

SB 1116 (Torres, D-Pomona) Steve Thompson Program Fund – authorizes physicians to make an additional $75 donation (currently $25 is assessed from each licensee) for the fund at the time of licensing or license renewal that would be deposited in the fund.

SB 1150 (Hueso, D-San Diego) Federal Qualified Health Centers – authorizes a clinic to claim same day billing for two visits (instead of the current limit of one) ie for mental health and health practitioner visits on the same day at the clinic.

SB 1083 (Pavley, D-Agoura Hills) Physician Assistants – allows physician assistants to certify disability after performance of a physical examination by the physician assistant under the supervision of a physician and surgeon.

Quite a bumper crop of access measures!

Note: the CPA may have concerns with the accelerated medical education program. This issue is still under review by the GA Committee. The GA Committee has adopted support positions on most of the remainder of the bills. The GA Committee met all day Saturday, March 15, 2014 to adopt positions on nearly 30 bills but there still is work to be done by the Committee!

MENTAL HEALTH PARITY ENFORCEMENT BUDGET ACT

Last year CPA sponsored SB 22 to ensure transparency and better enforcement of parity in California. While that bill fell short of making it to the Governor's desk last year, it was not necessarily because of any disagreements about its policy aim. This year, the CPA Council has authorized a new sponsored initiative which for 2014 uses a quite different strategy. The details are below.

The ***Mental Health Parity Enforcement Budget Act*** (MHPEBA) is designed to dramatically improve transparency for both consumers and providers as well as regulators - a major focus in the Final Rule for the Mental Health Parity and Addiction Equity Act of 2009 issued in November, 2013. And, through transparency better enforcement is expected and the promise of parity better realized.

The MHPEBA would also adopt national standards and force health insurers and health service plans to submit documented evidence --surveys of consumers and providers and other analyses -- to prove they are complying with the law. Above all, it provides the funding, derived primarily from fees on insurance plans, to ensure regulators have the tools to enforce tougher standards and rules.

The Act integrates four key principles to successfully and effectively implement the federal Mental Health Parity and Addiction Equity Act of 2008 and the Affordable Care Act in California.

Four Key Principles of Effective Parity Implementation

1) **Public Reporting**: The MHPAEA Final Rule imposes a new duty on plans and insurers to reveal internal parity analyses covering all of their operations. The analyses will be reported regularly to regulators and made available to the public.
2) **Include Parity-Specific Consumer Feedback**: Consumers experience parity and know what's working and what's not.
3) **Include Parity-Specific Provider Feedback**: Psychiatrists and other licensed mental health professionals deliver the services and know what's working and what's not.
4) **Structure for Reporting**: There are national standards that can shape coherent, effective reporting to the public and regulators.

Consumer and Provider Feedback in Enforcement– A Missing Link.

Currently health service plan or health insurer satisfaction surveys of consumers or providers contain few mental health specific questions and none specific to parity. The surveys fail to elicit sufficient information to evaluate compliance with the Final Rule from the level of those that benefit from or deliver services.

Existing Tools

Focused Medical Surveys or Market Conduct Examinations. These tools allow regulators to look at a wide range of compliance issues at the health plan and insurer headquarters level. This information is necessary to gage the extent of compliance, yet is not complimented with information that would reveal the degree of parity compliance at point of service. The interval for surveys or exams is long – three years or more -- and parity-specific surveys or exams are seldom undertaken.

Complaint System. Consumers of mental health or substance use services lodge complaints or appeals at a fraction of the rate compared with consumers of health services. Therefore, it is highly questionable to rely heavily on a complaint-driven system of enforcement to attack violations at the point of service level.

Note: the Mental Health Parity Enforcement Budget Act is scheduled to be heard in the Senate Budget Subcommittee on Health and Human Services on Thursday, March 20, 2014.

LANTERMAN PETRIS SHORT ACT

AB 364 (Steinberg. D-Sacramento) - Welfare and Institutions Code Section 5150 Revisions.

CPA opposed this bill in 2013 because of a number of ambiguities in amendments to the 5150 statute despite which it was signed into law by the Governor. The CPA and the California Academy of Emergency Physicians were two of the more prominent organizations opposing the measure, although for various reasons the list of opponents was not long. One of the ambiguities would allow a dangerous patient who needed to be taken to a locked, designated inpatient facility to be transported to an unlocked facility without the staffing and protections inherent in an inpatient unit and without any specification of the period of detention or provision for due process. CPA is monitoring.

Note: The CPA is asking that anyone with knowledge of adverse outcomes for patients who should be, and are not, taken to designated inpatients psychiatric units as a result of this change in the 5150 statute to send details to: randall-hagar@calpsych.org. Thanks!

LAURA'S LAW –
Assisted Outpatient Implementation, an Update.

There has been a fair amount of activity by counties since SB 585 (Steinberg) – which clarifies that Proposition 63 funds may be used for Assisted Outpatient Treatment – was signed by the Governor last September.

Yolo County: Yolo County last year joined Nevada County and Los Angeles County in implementing AOT. As press time, 5 patients had been enrolled in the pilot program and were showing good preliminary outcomes.

San Francisco: San Francisco Mayor Ed Lee, after instituting what he called a "lite" version of Laura's Law (it entailed 5 patients already on conservatorships who voluntarily accepted enriched services), has indicated in his January State of San Francisco speech that he now intends to implement a Laura' Law program in San Francisco. It remains to be seen whether or not he will take the same kind of liberties in naming the new program which upon closer inspection indicates that he is not actually utilizing the AOT statute.

Alameda County: in early March a tumultuous, 5 hour hearing resulted in the Board of Supervisors of Alameda County delaying a decision for three months on a staff recommendation to adopt a pilot AOT program. There may be indications that the Supervisors, some of whom were not seemingly familiar with the proposal when it was brought up, are educating themselves, after a year-long series of stakeholder meetings on the possibility of implementing an AOT program.

Contra Costa County: two proposals, one for 10 beds and one for 45 beds, are pending before the Board of Supervisors and will be reviewed by the Board in the near future.

Orange County: County Supervisor John Morlach in Orange County has indicated that the OC Department of Behavioral Health has developed an AOT plan with a budget of $4.2 million to be presented for a vote of the Board in May. He has opined that he believes it will receive sufficient votes to pass.

Los Angeles County: the LAC Department of Mental Health has submitted a plan to the Board of Supervisors for an expansion of the small 30 bed program to a proposed 330 beds. Currently the program uses only the voluntary settlement order portion of the AOT statute. The expansion proposal is being reviewed, and some changes are expected to be made before the measure is brought up for a vote before the Board.

Stakeholders in other Counties, such as Kern, are organizing community based processes to gain traction to implement AOT in those locales as well.

As further news becomes available I will send it out.

MICRA

At press time the proponents to increase the cap on non-economic damages in the Medical Injury Compensation Reform Act were busy trying to gather enough signatures before the March 24, 2014 deadline to qualify their initiative measure for the November 2014 ballot. They had stopped gathering signatures when they thought they had enough to qualify the initiative but a high rate of invalid signatures forced them to put the measure back out on the streets for more signatures – which they have been frantically trying to do during the last week before the deadline. If enough signatures ARE gathered (and validity of the additional signatures may take some time to verify) then it will mean that there will not be a MICRA bill in the legislature. Senate President pro Tem Steinberg has introduced a placeholder bill in the event that a "compromise" could be reached, or the ballot initiative failed to gather enough signatures. However, opposition to a legislatively facilitated compromise is very strong, and the coalition to defend the MICRA statute have indicated clearly that there is no compromise on raising the cap: they oppose it! If a bill goes forward without negotiation, it would face very stiff opposition in legislature.

Honors for CPA: a California State Assembly Resolution for Mental Health Wellness Month

Assembly Member Richard Pan, MD, a pediatrician and Chair of the Assembly Health Committee, recently memorialized Mental Health Wellness Month (January 2014) with a resolution on the floor of the Assembly. The CPA was honored in a private ceremony on the Assembly Floor as an organization whose efforts in the state legislature have contributed to mental wellness in California. In particular Dr Pan noted that the CPA was distinguished for contributions for efforts promoting mental wellness "a state of complete physical, mental and social well-being, and not merely the absences of disease or infirmity."

Dr Pan further stated that he was honoring the CPA whose work not only "increased awareness of mental health but promoted improved mental health and in so doing has greatly enhanced the quality of life for all Americans."

The CPA has supported Dr Pan, whose brother is a child and adolescent psychiatrist, in his efforts to raise standards of care and promote a broad series of health policy initiatives. Dr Pan in turn has worked closely with the CPA to improve its signature legislation to ensure transparency and better enforcement of mental health parity statutes, and to promote changes to the Laura's Law statute to improve prospects of implementation for Laura's Law in more counties. It's been a great partnership.

The CPA is proud to have received a copy of this resolution from one of only two physicians in the legislature and from the only physician who is part of the Assembly leadership team.

Dr Pan presents to Robert McCarron, MD (who is the Director of Integrated Medicine and Psychiatry Education at UC Davis and accepted the award on behalf of the CPA) a copy of the resolution on the Assembly floor.