

2008 REPORT

to the

MARYLAND LEGISLATIVE COUNCIL OF SOCIAL WORK ORGANIZATIONS

By

Capital Consultants of Maryland

In the realm of your relationship with Capital Consultants of Maryland, the Legislative Council has worked over the past year to promote the practice of clinical social work by

(1) continued visibility, (2) monitoring of reimbursement practices and obstacles, and (3) participation in legislative activities.

INCREASED VISIBILITY

This year the Legislative Council continued its efforts to raise the consciousness and knowledge base of legislators who previously did not have an appreciation for the profession of clinical social work.

Two years ago the Council embarked upon an increased awareness campaign by soliciting feedback from legislators on issues of importance to clinical social workers. This effort resulted in a greater understanding of the profession and paved the way for further interest and yet another opportunity to be identified as a significant component of the mental health system through the investment in the work of the Reimbursement Task Force which was authorized in the 2007 session, The Special Committee on Drug and Alcohol asked for the Council's input on where treatment gaps exist and what recommendations the Council would submit for consideration.

In summary, the Council's continued effort to achieve visibility before the legislature is succeeding. It is gaining in greater awareness of the uniqueness of clinical social work services among the Members and staff of the General Assembly. It is with this continued experience that legislative leaders will become your greatest advocates in the future.

MONITORING OF REIMBURSEMENT PRACTICES AND OBSTACLES

With ongoing support services from Capital Consultants, the Council continues with its efforts to promote opportunities for third party reimbursement and to weaken barriers to reimbursement. Capital Consultants continues to offer guidance and resources to all members who seek (1) clarification of the reimbursement and practice law or regulations, (2) guidance for accessing new reimbursement opportunities, and (3) resources for challenging barriers to adequate reimbursement. As a result, the Council has been

recognized as an interested party in the deliberations of the Task Force on Reimbursement and it continues to gather data on the concerns of clinical social workers across the State.

LEGISLATIVE ACTIVITIES

SCOPE OF PRACTICE

SB 243 / HB 965 Child Abuse and Neglect – Additional Professions and Failure to Report-Penalty Both bills established an increase in the types of persons who are responsible for reporting child abuse. Only the Senate bill created criminal penalties but proponents attempted to add that to the House bill. The Council took the lead in opposing this bill with the medical societies joining in. We suggested that untoward consequences of criminalization would harm children by defensive reporting and other clinical consequences. **We recommended that the respective licensing boards give further study to what the reporting process is and should be. This would begin to address the perception that there is under reporting of abuse by social workers.** This very emotional bill died in the House. It is expected that the bill will be introduced and pass the Senate next year and your contact with Senators would be useful during this Interim.

SB 848 State Board of Social Work Examiners - Membership - Qualifications

This bill requires that one licensed social worker who is primarily engaged in social work education at an accredited social work program be added as a member of the Maryland. **We supported this bill.**

Board of Social Work Examiners. The member must be nominated from a list of names submitted by the Maryland Higher Education Commission. **Under current law**, the board consists of 11 members; at least 4 have to be licensed certified social workers-clinical. The bill passed with an amendment to add one member to the board *“who is: primarily engaged in social worker education at an accredited a social work program and is nominated from a list of names submitted by the Maryland Higher Education Commission accredited by the Council on Social Work Education and nominated from a list of names submitted by the deans and directors of the Maryland social work education programs.”*

HB 811 – SB 764 State Board of Dental Examiners Nomination and Disciplinary Processes – Task Force on the Discipline of Health Care Professionals and Improved Patient Care

An outgrowth of an acrimonious debate between factions of dentistry is a bill that is amended to constitute a Task Force on the Discipline of Health Care Professionals and Improved Patient Care.

On or before December 1, 2008, the Task Force shall report recommendations to the Legislature for implementation through legislation in the 2009 session. The Force is constituted of Members of the legislature, the Secretary of Health and Mental Hygiene, the Attorney General, the Chief Administrative Law Judge, two current health occupation board members, administrators for health occupation boards, individuals having expertise in professional disciplinary to include two representatives of a patient advocacy organization; two attorneys from the Maryland State Bar Association two

representatives of professional health care associations; and two consumers of health care services. Their charge is to make recommendations regarding: *practices and procedures supporting the fundamental goals and objectives of the disciplinary programs of the health occupation boards; potential changes to the organizational structure of the health occupation boards and the relationship of all boards to the Department; and measures that will otherwise enhance the fair, consistent, and speedy resolution of reports concerning substandard, illegal, or unethical practices by health care professionals.*

The issues to be studied by the Task Force include: (1) the extent to which the current disciplinary system: adequately protects patients from serious risks due to incompetent or unethical practices by licensees; creates a burden to licensees that may be lessened, while ensuring continued protective and regulatory oversight; uses mentors and the cost to licensees associated with using them; adequately provides due process to licensees; and could be modified to more effectively protect patients, minimize incompetent or unethical behavior by licensees, provide more effective due process for licensees, and support the professional growth and development of all Maryland licensees; (2) potential changes in the disciplinary program of the health occupation boards that will: increase the transparency of disciplinary procedures for members of the public and the regulated community; improve the complaint process by addressing the roles of the boards, investigators, and assistant attorneys general including who may initiate complaints; increase the consistency and fairness of disciplinary outcomes; a statute of limitations for complaints to be brought against licensees; speed the resolution of meritorious complaints and the disposition of proceedings that do not require a public disciplinary order; from the time a complaint is filed, specify a reasonable period of time in which a board will conclude its action unless the board can demonstrate delays outside of its control; utilize the Office of Administrative Hearings more effectively; under certain circumstances, expunge disciplinary proceedings from a licensee's file after a specified period of time; and increase the wider adoption of consistent procedures and best practices by all boards including tracking of disciplinary data; an assessment of whether the current relationship between individual boards, the Department, and the Office of the Attorney General should be modified in connection with the disciplinary process of the board including: (i) oversight of the board by the Department; (ii) the role of an assistant attorney general in the investigation process; and (iii) the length of time an assistant attorney general works for an individual board and the potential of having the assistant attorneys general rotate among the boards.

HB 730 Health Occupations - Complementary Alternative Medicine Health Care Providers -Scope of Practice created an exemption from any licensing, certification, registration or other oversight by the state for any delivery of any health care treatments or advice except for traditional physician acts. **The arguments for the bill centered on** “the right to choose one’s own form of health care and the assertion that any opposition was based on money and turf.” **The arguments against the bill were centered on:** “the lack of

protection of the patient; the lack of authority of the state to provide oversight; confusion of the public on who are qualified providers; undermining of the current licensing system for all health providers in the state; the lack of authority to discipline those who provide unsafe services; and the lack of authority to restrict any service beyond those identified in the bill." **The bill died in the House**

REIMBURSEMENT

The following are reimbursement bills which were introduced to remedy problems that currently exist between carriers and health providers:

HB 709 SB 469 Health Insurance - Special Services, Procedures, or Reports - Reimbursement

Prohibiting carriers from denying reimbursement for any service, procedure, or report for which a special services, procedures, or reports code exists in the current procedural and terminology (CPT) code book, as adopted by the American Medical Association. This bill received an unfavorable report in the Senate and was heard only once in the House. Perhaps we should look into it – could this be the route to getting marital and family therapies covered by insurers?

HB 815 Health Insurance - Reimbursement of Health Care Practitioners - Information Provided by Carriers

requires that the carrier provide a health care practitioner with a written copy of: (i) a schedule of applicable fees for up to the FIFTY most common services billed by a health care practitioner in that specialty; (ii) a description of the coding guidelines used by the carrier that are applicable to the services billed by a health care practitioner in that specialty; (iii) the information about the practitioner and the methodology that the carrier uses to determine whether to: 1. increase or reduce the practitioner's level of reimbursement; and. provide a bonus or other incentive-based compensation to the practitioner. Information provided by the carrier must be in writing or electronic 30 days prior to a change; and in writing or electronically upon request of the health care practitioner.

HB1161 / SB 719 Health Insurance - Carrier Provider Panels - Standards for Availability of Health Care Providers required carriers to include in its panels licensed providers that allow for increased access to services in all areas of the state. This bill was fiercely debated and resulted in the Maryland Insurance Commission offering, in lieu of the bill, regulations on provider network adequacy. These were published on April 11, 2008 and express the providers' intent in the bill. I suggest that you make public comment on these proposed regulations so as to ensure that they address your needs to participate in provider panels across the State. Comments will be accepted through May 12, 2008. [I emailed the MIA to request a copy of the regulations – BFA]

HB 1219 / SB 811 - Health Care Provider Panels - Provider Contracts, also known as the "Cram-down bill," restricts HMOs from requiring that providers, as a condition of participating on a panel, provide services in the Medicaid panel which reimburses at a

lower rate. It states, more concisely, that **a provider contract may not contain a provision that requires a provider, as a condition of participating in a non-HMO provider panel, to participate in an HMO provider panel. However, a provider contract may contain a provision that requires a provider, as a condition of participating in a non-HMO provider panel, to participate in a managed care organization. Each provider contract will have to disclose: the carriers comprising each provider panel; and all schedules of applicable fees for up to the 20 most common services billed by a provider in the same specialty as the provider for each provider panel and each carrier in the provider panel. If a provider rejects a schedule of applicable fees, the provider contract may not require the provider to treat the enrollees of the carriers that reimburse the provider in accordance with any of the rejected schedules of applicable fees. Carriers can continue to offer a provider contract which requires, as a condition of participation, acceptance of a carrier fee schedule. If a provider elects to terminate participation on a provider panel, the provider must notify the carrier at least 90 days before the date of termination; and for at least 90 days after the date of the notice of termination, continue to furnish health care services to an enrollee of the carrier. This was a Herculean bill which has great impact upon certain providers who have affiliated with United Health Care and others.**

HB 594 SB 595 - Health Insurance - Carrier Credentialing - Reimbursement of Providers of Health Care Services requires carriers that accept a provider for participation in the carrier's provider panel to reimburse the provider for any covered health care services provided on or after the date that the provider's completed application for credentialing was submitted to the carrier. The bill was hotly contested and resulted in this compromise: The new language specifically states that the "**carrier shall reimburse a group practice on the carrier's provider panel at the participating provider rate for covered services provided by a provider who is not a participating provider if: (i) the provider is employed by or a member of the group practice; (ii) the provider has applied for acceptance on the carrier's provider panel and the carrier has notified the provider of the carrier's intent to continue to process the provider's application to obtain necessary credentialing information; (iii) the provider has a valid license issued by a health occupations board to practice in the state; and (iv) the provider: 1. is currently credentialed by an accredited hospital in the state; or 2. has professional liability insurance. a carrier shall reimburse a group practice on the carrier's provider panel from the date the notice required is sent to the provider a carrier that sends written notice of rejection of a provider for credentialing shall reimburse the provider as a nonparticipating provider for covered services provided. A health maintenance organization may not deny payment to a provider under this subsection solely because the provider was not a participating provider at the time the services were provided to an enrollee.**"

House Bill 1468 Health Insurance - Outpatient Mental Health Treatment - Elimination of Tiered Copayments

This bill was intended to repeal s tiered copayments for outpatient mental health and substance abuse treatment; it required health insurance coverage for all visits be not less than 80% after the applicable deductible. Benefits for covered expenses arising from services rendered to treat mental illness, emotional disorders, drug abuse, and alcohol abuse must be at a rate which is, after the applicable deductible, not less than □□80% for the first five visits; □□65% for the sixth through thirtieth visit; and □□50% for the thirty-first and

subsequent visits in any calendar year or benefit period of not more than 12 months. This tiered system was instituted approximately 15 years ago at the insistence of the insurers when we fought for parity in mental health coverage. The bill was sent to Interim Study and it will offer an opportunity for your input.

Other legislation which related to your profession were in the areas of taxes for designated treatment services, emergency volunteer practitioners authority to practice, PTSD, and Community Services reimbursement rates for mental health providers. treatment services for returning veterans, and involuntary commitment which will be studied this Interim

In summary, the reimbursement bills were the hotbed of activity in the legislature. They have been the source of endless hours of debate between ALL of the licensed health care providers and the insurance industry. Resolution to the debate was difficult and some bills resulted in amendments which were acceptable compromises.

Capital Consultants recommends to the Council that you:

- (1) Continue to pursue data from the 7,000 clinical social workers in order to make your case before the Reimbursement Task Force;**
- (2) Participate in the various Interim Studies throughout this summer and fall (particularly the study group on elimination of Tiered Co-payments);**
- (3) Pursue activities related to the Social Worker Board's exploration of child abuse reporting; and**
- (4) Pursue issues addressed through the Task Force on the Discipline of Health Care Professionals and Improved Patient Care**

This has been a very successful year and you are known in my circle as a respected component of the health care delivery system!

**Alice Neily Mutch, Principal
Capital Consultants of Maryland**