REPORT OF THE
SPECIAL ADVISORY COMMISSION ON
MANDATED HEALTH INSURANCE BENEFITS ON

The Mental Health Providers Mandated In Sections 38.2-3408 and 38.2-4221 of the Code of Virginia

TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA

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SENATE OF VIRGINIA

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To: The Honorable L. Douglas Wilder
Governor of Virginia
and
The General Assembly of Virginia

The report contained herein has been prepared pursuant to sections 9-298 and 9-299 of the Code of Virginia.

This report documents a study conducted by the Special Advisory Commission on Mandated Health Insurance Benefits to assess the social and financial impact and the medical efficacy of the current mandated provider categories of psychologist, clinical social worker, professional counselor, and psychiatric clinical nurse specialist of section 38.2-3408 of the Code of Virginia.

Respectfully submitted,

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Introduction

Sections 38.2-3408 and 38.2-4221 (Appendices A and B) of the Code of Virginia require that certain types of health care providers be directly reimbursed for covered services that are rendered within the scope of the provider's license. The Special Advisory Commission on Mandated Health Insurance Benefits (Advisory Commission) reviewed the mental health provider categories of psychologist, clinical social worker, professional counselor, and clinical nurse specialist rendering mental health services in 1992.

The Advisory Commission held a public hearing during its September 14, 1992 meeting to receive comments regarding the four mandated mental health provider categories. Thirteen speakers were heard and written comments were received from six interested parties.

Current Coverage of Mental Health Providers

Sections 38.2-3408 and 38.2-4221 of the Insurance Code mandate that certain medical practitioners must be reimbursed directly by insurers. The mandate requires insurers to reimburse for services covered under the insured's policy if the provider is performing a service that he or she is legally allowed to perform. The provider must be licensed in the Commonwealth. Four categories of mental health providers are included in §§38.2-3408 and 38.2-4221. The categories are psychologist, clinical social worker, professional counselor, and clinical nurse specialist who renders mental health services.

The mandate does not apply to the Medicaid program.

The currently mandated mental health providers were added to §§38.2-3408 and 38.2-4221 over a period of time. Psychologists were mandated in 1977, clinical social workers in 1987 (after being optional in 1985), professional counselors in 1987 and clinical nurse specialists were added in 1989.

Legislation in Other States

The legislative requirements of other states vary greatly in this area. Thirty states mandate reimbursement for psychologists, fifteen for clinical social workers and twelve for clinical nurse specialists. Only three states mandate reimbursement for professional counselors. There are an additional seven states that mandate provider reimbursement for all licensed health professionals and two additional states specifically require reimbursement for all mental health professionals.

Insurance Coverage for Mental Health Providers

Insurer practices vary with respect to direct reimbursement to providers. Some insurers reimburse any provider duly licensed in a state that is acting within the scope of his or her license. Other insurers will directly reimburse only physicians or providers that are mandated. Some insurers respond to the request of their policyholders and reimburse professionals if asked by the insured.

Number of Mental Health Providers Mandated in §§38.2-3408 and 38.2-4221

Information was obtained from the Department of Health Professions regarding the number of pertinent practitioners licensed in Virginia. According to the information provided, there are 486 psychologists; 263 clinical nurse specialists; 1,597 clinical social workers; and 1,099 professional counselors. The total number of licensed mental health providers mandated under §38.2-3408 is 3,445. All of the 3,445 providers may not be actively working in the Commonwealth at the present time.

Requirements for Licensure

Each of the mental health providers is licensed by the Board of Health Professions according to the requirements of the Health Professions Code.

Professional Counselor

Professional counselors are licensed under §§54.1-3500 through 54.1-3506. Applicants for licensure must have a graduate degree including 60 semester hours or 90 quarter hours of counseling or behavioral sciences from a regionally accredited college or university. The graduate work must include classes in theory and techniques of group dynamics; theory and techniques of counseling; abnormal behavior; professional function and ethics; evaluation and appraisal procedures; career development; and a supervised practicum or internship. Applicants are also required to complete 4,000 hours of counseling under the guidance of a licensed mental health professional. The experience must include at least two hours per week of face-to-face supervision. A written examination must be passed and a written case study must be reviewed and evaluated.

The practice of counseling is defined in §54.1-3500 as:

> rendering or offering to render to individuals, groups, organizations, or the general public any service involving the application of principles, methods, or procedures of the counseling profession, which shall include appraisal activities, counseling, guidance and personal consulting and referral activities.

A professional counselor is defined in that section as being:

> a person trained in counseling and guidance services with emphasis on individual and group guidance and counseling designed to assist individuals in achieving more effective personal, social, educational and career development and adjustment.

Professional counselors are prohibited by §54.1-3502 from prescribing drugs.

Psychologist

Psychologists are licensed under §§54.1-3600 through 54.1-3608. Psychologists, with the exception of school psychologists, must complete undergraduate study or a doctorial program of at least four years and residency training. Psychologists must also pass written and oral examinations to be licensed. Psychologist is defined in §54.1-3600 as "a person trained in the application of established principles of learning, motivation perception,

thinking and emotional relationships to problems of personality evaluation, group relations, and behavior adjustment. The practice of psychology is defined in the same section as:

> the rendering or offering to render to individuals, groups, organizations, or the general public any service involving the application of principles methods or procedures of the science and profession of psychology, and which includes but is not limited to measuring and testing, counseling and psychotherapy and psychological consulting.

Psychologists are not permitted to prescribe drugs.

Clinical Social Worker

Clinical social workers are regulated under §§54.1-3700 through 54.1-3707. Applicants must hold a master's degree from an accredited school of social work, or the equivalent. They must have two years of full-time post-master's experience in the delivery of clinical services or equivalent part-time experience under supervision. Full-time experience is considered 3,000 hours of work experience over two years, 1,380 hours must be in face-to-face contact. The part-time equivalent would be the same number of hours over a four-year period. The current regulation requires written examination and an oral examination. The requirement of an oral examination is being deleted. Clinical social worker is defined in §54.1-3700 as meaning:

> a social worker who, by education and experience, is professionally qualified at the autonomous practice level to provide direct diagnostic, preventive and treatment services where functioning is threatened or affected by social and psychological stress or health impairment.

The practice of social work is defined in that same section as meaning:

> rendering or offering to render to individuals, families, groups, organizations, governmental units, or the general public service which is guided by special knowledge of social resources, social systems, human capabilities, and the part conscious and unconscious motivation play in determining behavior.

Clinical social workers are not permitted to prescribe drugs.

Clinical Nurse Specialist

Clinical nurse specialists are regulated under §§54.1-3000 through 54.1-3028. Clinical nurse specialists must be registered nurses. Registered nurses must have a diploma or degree from an

approved professional nursing program and pass a written examination. Clinical nurse specialists must also have a master's degree, clinical experience and a year of supervised practice after receiving the master's degree. Clinical nurse specialists must also pass a written examination. Clinical nurse specialist is defined in §54.1-3000 as meaning:

> a person who is registered by the Board in addition to holding a license under the provisions of this chapter to practice professional nursing as defined in this section. Such a person shall be recognized as being able to provide advanced services according to the specialized training received from a program approved by the Board, but shall not be entitled to perform any act that is not within the scope of practice of professional nursing.

Evaluation of Mandated Mental Health Providers Based on Review Criteria

Social Impact

a. The extent to which the treatment or service is generally utilized by a significant portion of the population.

According to information provided by the Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS), the national prevalence rate is 15.4% for the population over 18 years of age having at least one alcohol, drug abuse, or other mental disorder. National statistics indicate that 11.8% of children and adolescents are either at risk for mental health problems or currently exhibit some mental health problems.

Based on Virginia's 1990 population of 6.2 million and an above average rate of mental illness and substance abuse, 178,000 children and adolescents are at risk of developing a mental health problem. It is estimated that one million Virginians will have a mental illness or substance abuse disorder requiring treatment in a given year.

In 1990, the 40 Community Services Boards that are a part of the Virginia public mental health system, served over 161,000 adults with mental illnesses. Average length of stay is 28 days. These figures do not include the need met by the private sector or those with an unmet need.

According to BCBSVA claims experience, approximately 10% of their policyholders use mental health services.

b. The extent to which insurance coverage for the treatment or service is already available.

Some level of insurance coverage for mental health treatment is generally available. Insurance coverage for treatment on an inpatient basis is available because of the mandate of coverage of at least 30 days of active inpatient treatment in any policy year.

Outpatient coverage is a "must offer" mandate for group contracts. Responses of insurers to a 1989 State Corporation Commission survey indicated that the majority of insurers responding (89%) provided outpatient benefits prior to the mandate.

Information provided by Blue Cross and Blue Shield of Virginia (BCBSVA) indicates that over 95% of all BCBSVA group policyholders chose to include outpatient mental health benefits in their total health insurance package. BCBSVA does not include outpatient coverage for mental health services in its standard individual contracts. BCBSVA has stated that the coverage is not included in the standard individual contracts because of cost consequences.

Payment for treatment by the mental health providers is required if there is coverage for the service. Proponents make the argument that access to needed care is increased by including mandated providers, particularly when they operate in rural areas.

c. If coverage is not generally available, the extent to which the lack of coverage results in persons being unable to obtain necessary health care treatments.

Proponents make the argument that the lack of coverage for outpatient treatment can result in the inappropriate or unnecessary use of inpatient treatment. Proponents also point to the effects that untreated mental illness have on the individual, their family and society. Coverage for inpatient care is available according to the mandate.

The services of practitioners is then covered or not covered depending on the treatment setting.

d. If the coverage is not generally available, the extent to which the lack of coverage results in unreasonable financial hardship on those persons needing treatment.

Proponents make the argument that without insurance coverage out-of-pocket payments may leave some individuals medically indigent. Proponents using this service, or with family members needing care, described going without prescribed therapy and medications because coverage was not available or had been exhausted. Proponents also discussed paying for bills for

hospitalizations years after the care was needed because the amount of the bill was so high.

Necessary treatment can be relatively expensive. A 1989 BCBSVA study on the costs of mandates estimated an average cost of approximately $75 per visit for inpatient treatment and $41 per visit for outpatient coverage. For individuals needing prolonged care the cost can be substantial.

In 1992 testimony, BCBSVA provided information on the cost of mental health care. One-hour sessions of outpatient psychotherapy could range from $40 to $120 or more. BCBSVA claims experience indicates an average inpatient treatment program of approximately 15 days. But, stays for some insureds range from one day to 28 or 30 day programs and several months to several years for extensive residential programs. Per diem expenses can range from $300 to $1,000 or more.

e. The level of public demand for the treatment or service.

Proponents cited information from the National Institute of Mental Health estimating that in any given month, 653,014 Virginians or 12.6% of the adult population, will have a diagnosable mental illness. Over a six-month period the rate increases to 14.8% of the adult population. In a lifetime, 22.1% of adult Virginians will suffer from a mental illness.

During the 1990 fiscal year, 152,287 Virginians received mental health services through the Community Services Boards. More than 70,000 people received outpatient care and 1,500 received inpatient treatment. Over 41,000 received emergency intervention. More than 4,000 people are on waiting lists including 1,330 needing outpatient care.

Because of negative connotations of seeking treatment, DMHMRSAS estimates that only 20% of those who need care actually seek it.

f. The level of public demand and the level of demand from providers for individual and group insurance coverage of the treatment or service.

Providers and individual consumers have indicated support for the currently mandated provider categories.

g. The level of interest of collective bargaining organizations in negotiating privately for inclusion of this coverage in group contracts.

We are not aware of the interest of collective bargaining organizations on this issue.

h. Any relevant findings of the state health planning agency or the appropriate health system agency relating to the social impact of the mandated benefit.

No findings were presented to the Advisory Commission from state agencies.

Financial Impact

a. The extent to which the proposed insurance coverage would increase or decrease the cost of treatment or service over the next five years.

Proponents make the argument that including mental health providers does not increase the cost of the treatment or service. Some practitioners have quoted fees lower than those charged for the same or similar service rendered by physicians. Opponents in the past have made the argument that after providers are mandated their fees increase.

b. The extent to which the proposed insurance coverage might increase the appropriate or inappropriate use of the treatment or service.

Opponents generally point to the "induced demand" that may result from a mandate. Proponents point to the current need for care that goes unmet or is deferred to waiting lists until assistance is available as indicators that inappropriate care is not provided.

c. The extent to which the mandated treatment or service might serve as an alternative for more expensive or less expensive treatment or service.

Proponents make the point that with a continuum of providers mandated the insured can seek the appropriate level of care which may be less expensive than physician care.

Opponents, as previously stated, in the past have indicated that the fees charged by providers increase after being mandated resulting in no cost savings.

d. The extent to which the insurance coverage may affect the number and types of providers of the mandated treatment or service over the next five years.

There are currently 3,445 providers of mental health services mandated in Virginia. The last provider group mandated, clinical nurse specialists, has only 263 license holders in Virginia.

e. The extent to which insurance coverage might be expected to increase or decrease the administrative expenses of insurance companies and the premium and administrative expenses of policyholders.

The greatest expenses associated with mandates are generally incurred when a mandate is initially enacted. The ongoing cost for the mandated providers is not expected to be substantial.

f. The impact of coverage on the total cost of health care.

Proponents make the argument that the overall cost of health care is decreased because of lower fees. Opponents have previously stated that induced demand and fee increases add to the overall costs of health care.

Medical Efficacy

a. The contribution of the benefit to the quality of patient care and the health status of the population, including the results of any research demonstrating the medical efficacy of the treatment or service compared to alternatives or not providing the treatment or service.

Proponents made the argument that the efficacy of treatments provided by the mandated professionals is clearly demonstrated. Each category of provider has certain areas of expertise and training necessary to administer care in those areas.

Opponents did not question the efficacy of the treatment and services provided.

b. If the legislation seeks to mandate coverage of an additional class of practitioners:

1) The results of any professionally acceptable research demonstrating the medical results achieved by the additional class of practitioners relative to those already covered.

This review was limited to currently mandated providers. The medical results of the mandated providers were not questioned by opponents.

2) The methods of the appropriate professional organization that assure clinical proficiency.

The Board of Health Professions regulates all of the provider groups being reviewed. Standards and requirements are imposed to obtain and maintain licensure. Opponents did not question the proficiency of the providers being reviewed.

Effects of Balancing the Social, Financial and Medical Efficacy Considerations

a. The extent to which the benefit addresses a medical or a broader social need and whether it is consistent with the role of health insurance.

The mandated providers are viewed as addressing medical and social needs. Proponents made the argument that mental health coverage is in the public's best interest because of the effect that people needing treatment have on everyone.

b. The extent to which the need for coverage outweighs the costs of mandating the benefit for all policyholders.

Proponents make the argument that the costs of mandating providers is not significant because of the relatively lower fees.

c. The extent to which the need for coverage may be solved by mandating the availability of the coverage as an option for policyholders.

Mandating optional coverage has not been shown to be effective in the past. Options are generally selected only by those individuals who anticipate that it is very likely that they will need the coverage that is extended.

Recommendations

The Advisory Commission voted to recommend that the currently mandated provider categories of psychologist, clinical social worker, professional counselor, and clinical nurse specialist rendering mental health services be retained. The Commission members voted in favor of retaining the categories by a margin of 8 to 2.

The information that was presented to the Advisory Commission demonstrated a need for the continuum of providers that are currently reimbursed. Presently, direct reimbursement allows insureds to see a psychiatrist or physician only when necessary. When the appropriate care can be provided by another mental health professional, it can be received on a different level.

The skills and competence of the currently mandated providers were not questioned at the public hearing or in written comments. No requests were made to the Advisory Commission to recommend the deletion of the mental health providers mandated under §§38.2-3408 and 38.2-4221.

Conclusion

The Advisory Commission believes that the retention of the currently mandated providers of mental health services, psychologist, clinical social worker, professional counselor and clinical nurse specialist rendering mental health services is merited. The Advisory Commission believes that these provider groups work collaboratively with physicians to provide adequate mental health services to Virginians.

§ 38.2-3408. Policy providing for reimbursement for services that may be performed by certain practitioners other than physicians. — A. If an accident and sickness insurance policy provides reimbursement for any service that may be legally performed by a person licensed in this Commonwealth as a chiropractor, optometrist, optician, professional counselor, psychologist, clinical social worker, podiatrist, physical therapist, chiropodist, clinical nurse specialist who renders mental health services, audiologist or speech pathologist, reimbursement under the policy shall not be denied because the service is rendered by the licensed practitioner.

B. This section shall not apply to Medicaid, or any state fund. (1968, c. 588, § 38.1-347.1; 1973, c. 428; 1979, c. 13; 1986, c. 562; 1987, cc. 549, 551, 557; 1989, cc. 7, 201.)

§ 38.2-4221. **Services of certain practitioners other than physicians to be covered.** — A nonstock corporation shall not fail or refuse, either directly or indirectly, to allow or to pay to a subscriber for all or any part of the health services rendered by any doctor of podiatry, doctor of chiropody, optometrist, optician, chiropractor, professional counselor, psychologist, physical therapist, clinical social worker, clinical nurse specialist who renders mental health services, audiologist or speech pathologist licensed to practice in Virginia, if the services rendered (i) are services provided for by the subscription contract, and (ii) are services which the doctor of podiatry, doctor of chiropody, optometrist, optician, chiropractor, professional counselor, psychologist, physical therapist, clinical social worker, clinical nurse specialist who renders mental health services, audiologist or speech pathologist is licensed to render in this Commonwealth. (Code 1950, § 32-195.10:1; 1966, c. 276, § 38.1-824; 1973, c. 428; 1979, cc. 13, 721; 1980, c. 682; 1986, c. 562; 1987, cc. 549, 551, 557; 1988, c. 522; 1989, cc. 7, 201.)