

Dispatch from the Battle Field: Hawaii's and Louisiana's Ongoing Struggles for Prescription Authority for Psychologists

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HAWAII

During last year's session of the Hawaii legislature, the Hawaii Psychological Association (HPA), under the leadership of Jill Oliveira-Berry and Robin Miyamoto, was successful in having the legislature establish an Interim Task Force to explore the feasibility of psychologists prescribing. HPA's two legislative champions co-chaired the group. This year, the Hawaii House of Representatives passed HR 2589, which would allow appropriately trained psychologists practicing within federally qualified community health centers and in medically underserved areas to prescribe. The legislation was supported by each of the 13 community health center medical directors; HMSA, the Blue Cross/Blue Shield plan of Hawaii; and the Hawai'i Nurses' Association. HPA's quest became the topic of radio debates and newspaper articles (including on the editorial page), where it received the enthusiastic endorsement of the Hawai'i Primary Care Association. The Senate Health Committee recommended the adoption of the House proposal and ultimately both legislative bodies agreed upon a compromise under which the State's Legislative Reference Bureau was directed to study the issue and report back their findings to the legislature for consideration in the 2007 legislative session. Included in this report is to be a review of the Department of Defense RxP experiences. In my judgment, HPA made considerable progress, particularly in educating the broader community regarding the clinical expertise of our profession, as well as truly engaging their membership in determining their own destiny. An insider's view of the process – Ray Folen:

Having previously passed through the House Health Committee, this prescriptive authority bill was recognized as having some 'legs' on it. It is an access to care bill for the underserved and uninsured people of our State seeking care in community health centers (CHCs). Psychologists, well represented in these areas, are in most cases unable to get the psychiatric support needed. Working collaboratively with primary care physicians has proven to be a successful alternative. They trust the medical psychologist's psychopharmacology skills and want them

to operate more independently.

Psychology was well represented at the hearing. Robin and Jill, co-chairs of the HPA RxP Task Force, delivered exceptionally persuasive testimony, as did other HPA board members, doctoral-level psychology trainees, CHC staff, CHC medical directors, the APA Practice Directorate, the Louisiana Academy of Medical Psychologists, DoD prescribing psychologists, social workers, and community-based organizations such as the Hawai'i Primary Care Association. A number of psychologists working in CHCs testified and made compelling statements, but clearly the most powerful message they communicated to the legislature was their very presence in the rural and underserved communities.

Organized psychiatry, also realizing that the RxP bill had 'legs,' was particularly unkind at the hearing. It's amazing that some of our legislators still find their self-serving arguments persuasive. Does it matter that so few of them provide care to the underserved? Does it matter that they have not initiated any meaningful efforts to address the mental health problems of this population? Thankfully, some of our legislators continue to champion our efforts to increase access to care, despite the opposition.

"Psychiatry fervently brought out the same tired arguments. They reported that the number of Hawaii psychiatrists per capita is greater than in most other states, but failed to mention that very few psychiatrists will treat Medicaid, welfare or uninsured patients. Indeed, even in rural Honolulu, it is near impossible for a welfare patient to get an appointment with a psychiatrist. Psychiatry did their best to scare the legislature by conjuring up visions of psychologists killing patients and, of course, failed to mention evidence from the DoD reports, the GAO reports and the Louisiana psychologists that suggested a far more positive reality. Thankfully, several psychologists who testified late in the session had the opportunity to correct these distortions.

More egregious were the outright lies and misrepresentations. A state psychiatrist, attempting to minimize the severe lack of psychiatric services, testified

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that ‘every square mile of the State is covered by psychiatrists in the Adult Mental Health Division,’ but forgot to mention that the Division provides services only to the SMI population. After Robin spoke eloquently and in detail about the additional training prescribing psychologists receive, a psychiatrist told the legislators it was an ‘11 week training program.’ After Robin provided a map showing where psychologists were providing services in Medically Underserved Areas, a psychiatrist testified that psychologists don’t work in underserved areas. We were also amused by the creativity of the testimony: one psychiatrist said we don’t read medical journals and therefore shouldn’t prescribe; another psychiatrist showed a graph with two years of RxP training presented as two hours. When pressed by the legislators to define the minimum training necessary to prescribe, the psychiatrists reluctantly suggested the training required for licensure as an APRN. When asked what that training entailed, they didn’t have a clue! A Professor of Psychiatry called both psychology and the legislature ‘immoral’ for promoting the bill.

One of the more disturbing moments at the hearing was when a noticeably medicated patient read testimony that had been prepared for her in opposition to RxP. The patient stumbled over words she could not pronounce and obviously had not seen before, parroting arguments that she didn’t appear to understand.

Over the past two decades we have placed many psychologists in underserved areas of the State; psychologists are in 80% of all CHCs and the goal is to have 100% by the end of 2006. We have articulated a financial model that will allow CHCs to easily recoup the costs of hiring medical psychologists. We have a school (Argosy University/Honolulu) with a primary mission of training psychologists to work with diverse and marginalized populations. We have a post-doctoral psychopharmacology training program in place. On the other hand, psychiatry is placing only 3% of its graduates in underserved areas. It can’t fill psychiatry residency positions without recruiting 40% from foreign countries. Psychiatry’s goal at the hearing was to install fear and confusion in the legislature. In the past, this strategy was effective. It appears, however, that the reasoned word is gaining ascendancy.” And, we would add, that HPA’s membership is fully engaged.

LOUISIANA

The culmination of a decade of work and four legislative sessions came in 2004 when the Governor of Louisiana signed the Medical Psychologist statute authorizing specially trained psychologists (medical psychologists)

[MPs] to prescribe medications in the management of psychiatric disorders. Following implementation of this statute with the promulgation and publication of the necessary enacting regulatory language by the Louisiana Board of Examiners of Psychologists, appropriately credentialed MPs began practicing with this expanded capability. However, the state mental health system, dominated and controlled by psychiatrists who had vigorously opposed this legislation, refused to make the necessary allowances for state service MPs to practice within the fullest extent of the law. The low mark (to date) for this opposition came immediately following Hurricane Katrina when the state’s Office of Mental Health quietly scrapped plans to utilize its own state employed MPs in the delivery of emergency psychiatric services associated with the storm and its aftermath, reassigning key state office MP personnel instead to non-clinical activities and support services of various kinds. Thus, in late 2005, the Louisiana Psychological Association (LPA) and its sister organization the Louisiana Academy of Medical Psychologists (LAMP) again joined forces with APA’s Practice Directorate and CAPP to address this unacceptable state of affairs.

Early on an antiquated ‘Mental Health’ statute was targeted for revision as, among other problematic provisions, it held that only a physician could order or prescribe medication for patients in the state’s mental health system. Interestingly, during the development of a legislative strategy to correct this problem, it was learned that the Louisiana Nurse Practitioners Association had also been eyeing this statute and, in the hopes of revising it so that nurse practitioners (NPs) could function independently within the state psychiatric system, had planned to pre-file a bill in the 2006 legislative session that would make NPs and MDs functionally equivalent within this system. We elected to amend this legislation, after its introduction so that MPs could prescribe within the state’s mental health system and to work cooperatively with the NPs toward some of our common interests. Politics, as you know, however, can make for some strange bedfellows.

At the outset, the psychiatry controlled Office of Mental Health, upon learning of our plans to amend this bill approached the NPs with the intent of trying to work out a compromise that would give NPs some increased role in the public mental health system. The crux of the proposed bargain, however, was to have been the rejection of any effort to pass an amendment involving the explicit recognition of MPs in this legislation. Understandably, the NPs needed to seriously consider such a compromise as it might have been in their best interest to help throw MPs under the bus if it would help assure the passage of their

legislation. However, at the initial legislative hearing it quickly became clear to the NPs that psychology was an exceptionally formidable player and that the best way to avoid the underside of the bus themselves was to tuck in behind us and follow our blocks. At that committee hearing, the matter was deferred for a week and the Office of Mental Health ceased to be a significant player in this matter. However, the Louisiana State Medical Society, the Louisiana State Psychiatric Medical Society, the Louisiana State Board of Medical Examiners and, interestingly, the Office of Louisiana Advocacy Services (who were vehemently opposed to NPs having the authority of issuing 'emergency certificates' or PECs for short term commitments, as could physicians and certain psychologists under prevailing law) all opposed the legislation on the table. In an interesting turn of events, at a second hearing in the same committee the following week, psychology was approached by the Medical Society. It seemed that their greatest concern was the emerging independence of the NPs and, unlike their psychiatric counterparts, they were relatively less exercised by the prospects of MPs being explicitly recognized in this instrument. Understandably, we were interested in how our joint interests could be achieved but we were not willing to jettison the NPs, and as the session unfolded we continued to work with all sides toward a framework of language that might be acceptable to the principles in this matter.

Here I must honestly tell you that of all the sides on this issue, the Medical Society was the easiest organization with which to work. They were straightforward and open to equitable compromise. In the end, with our assistance, much work and the leadership of the Chair of the House Health Committee, such a compromise was struck. It removed the language recognizing NPs in the mental health statute and instead recognized only Psychiatric Mental Health Nurse Practitioners. For psychology in general, the compromise language changed a provision limiting the authority to execute a PEC to only clinical or counseling psychologists to psychologists with 'a clinical specialty,' specialties that will be determined by the Louisiana Board of Examiners of Psychologists. It also included psychologists, medical psychologists and psychiatric mental health nurse practitioners in the definition of 'primary care providers' of mental health services. Moreover, the compromise language provided for the specific credentialing of medical psychologists and psychiatric mental health nurse practitioners to practice within the fullest extent of their respective authority within the state's mental health facilities. Lastly, the language restricting the prescribing of medications in the state system to physicians was changed to read as follows: 'No

medication may be administered pursuant to the provisions of this Chapter, except upon the order of a physician, medical psychologist or psychiatric mental health nurse practitioner. The physician, medical psychologist or psychiatric mental health nurse practitioner is responsible for all medications which he has ordered and which are administered to the patient.'

LAMP, LPA, the medical society, the psychiatric society, and the nurse practitioners all signed off on this language (the Advocacy Office still opposed psychiatric nurse practitioners having PEC authority). Unfortunately, sweeping compromise such as this take a great deal of time and effort and, while it subsequently swept through the House Health Committee unanimously (an earlier version had passed the Senate at both the committee and floor levels), it languished on the House floor late in the session jammed up behind hundreds of other bills. In order for it to become law, it had to pass the House floor and return to the Senate floor for concurrence, as it was considerably altered from its original language. All of this had to occur in the last week of the legislative session.

On the Friday before the last day of the session the following Monday, our bill was scheduled to be heard on the House floor. Just as it was called up, a term limited Representative asked the Speaker for a personal privilege and rose to say his formal good-byes to his fellow legislators. He finished at 6:05 PM and as our bill was then called up, the Secretary of the House advised the Speaker that under changes made in the Louisiana Constitution several years earlier, no bill, except those being heard for concurrence from the other chamber could be heard after the 85th day of the legislative session or 6:00 PM that day!! After quickly reviewing the constitution, it was determined, however, that with a two-thirds vote by both chambers this provision of the Louisiana Constitution could be overridden and a bill kept alive.

While this had never successfully been done before, we were determined to be the first to do so and, after making the appropriate motions, had this historic move put to a vote on the floor. However, the House was in a foul, late session mood and angry that the Senate was not moving on House bills at this late hour. Two former Speakers of the Louisiana House rose in opposition as ours was a Senate bill and, requiring a two-third vote margin we received only 67 of the 70 necessary votes.

We (LAMP/LPA lobbyists, Bud Courson and Jim Nickel, the NP lobbyist and myself) retired to the quiet of the by now nearly deserted area just outside the House chamber and were joined by the House sponsor of this bill who, physically and psychologically exhausted, was weeping and apologizing because we had failed. In a scene that will



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stick with me forever, Bud gently hugged this long time champion of health causes and told her not to feel badly. He spoke softly to us as we huddled in the gathering dimness of the evening, whispering that we had come too far and reminding us that miracles are our specialty. We resolved to return again Sunday evening, Father’s Day, to make another run at this historic effort. A few minutes later after we had coordinated our schedules and said our good-byes, I walked to a nearby bench where my wife had been waiting so that we could go to dinner when suddenly, out of the corner of my eye, I saw Bud sprinting back toward the House Chamber. I caught him as he reached a side doorway gazing in at something only he could see. After what seemed an eternity, he turned to me and simply said, ‘Now is the time.’ We eased into seats in the empty gallery behind the floor. One of the former Speakers who had spoken in opposition to us was seated just in front of us. He whirled in his seat towards us and said defiantly that this vote would also fail. Moments later, he was proven wrong, as the Louisiana House of Representatives voted by a vote of 81 to 10 with 13 absent to override the constitution and allow our bill to be heard. Later that night just before adjournment, we moved to the other Chamber where the Senate voted by 35-0 to likewise suspend the constitution and allow a vote on our bill. On Father’s Day, the Louisiana House of Representatives took up our bill and voted it out favorably by a 90 to 7 margin with 7 others absent. The following day, the last day of the 2006 legislative session, the Louisiana Senate followed suit and passed out bill out with a favorable 35-0 vote. Governor Kathleen Blanco signed this bill into law on June 29th as

Act 664. It becomes effective August 15th.

As I tried to sleep the night we were able to override a constitutional barrier to keep our hopes alive, my mind replayed the history I’d been privileged to witness that evening. I thought about psychology and how far we’ve come. I thought about those who have despaired of achieving legislative success and wished they had been with me. I thought of a cold day in a duck blind many years ago when my father told me that there would come times in my life when I’d remember what he was to tell me – ‘Son, if you don’t quit, you win.’ He was right.

For those who are personally interested in pursuing the RxP agenda, there are outstanding training programs targeted towards full-time practitioners. And, I would suggest that one should seriously consider becoming credentialed as a “medical psychologist” in the State of Louisiana. Licensure mobility was a very high priority for APA Past President Ron Levant and Russ has been working closely with the Association of State and Provincial Psychology Boards (ASPPB), the American Board of Professional Psychology (ABPP), and the National Register of Health Service Providers in Psychology to make this a reality and thereby bring our profession into the 21st century. In an era of telehealth technology and instant virtual communications, geographical distances will no longer be an acceptable rationale (i.e., excuse) for less than optimal healthcare. The 21st century will present exciting opportunities for those with vision and those who dare to vigorously pursue the future and especially for those “who don’t quit” .

