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The Pennsylvania Psychologist

Vol. 77, No.2

FEBRUARY 2017 • UPDATE

Child Abuse Reforms: Have the Changes in Pennsylvania Law Made Any Difference?

Samuel Knapp, EdD, ABPP; Director of Professional Affairs



Dr. Samuel Knapp

In 2011, Pennsylvanians were shocked to learn of the extensive child abuse history of former Penn State coach Jerry Sandusky. The subsequent reports of the fail-

ure of responsible persons to report their suspicions of child abuse led to a massive overhaul of Pennsylvania's Child Protective Services Laws including major changes in the responsibilities of mandated reporters such as psychologists. All psychologists, who are now required to take mandatory training in child abuse every renewal period, know the basics of these changes. The new laws, Act 31 of 2014 principally, changed the circumstances under which psychologists (and other mandated reporters) have to report suspected abuse to include situations where they have not seen the child directly. In addition, the law changed

some definitions of what constitutes child abuse.

Following the publication of the its annual child abuse report in 2015 (Department of Human Services, 2016), we have our first glimpse as to whether these changes actually improved protections for the children of Pennsylvania. From the standpoint of increasing the number of children protected by Children and Youth, then the legislation appears to have met its goal (although many questions are yet unanswered). The number of reports of suspected abuse increased to 40,590 in 2015 up from 29,273 in 2014 and the number of substantiated reports of abuse increased to 4,203 in 2015 up from 3,340 in 2014. The total number of reports of suspected in 2015 increased by one-third over 2014 and the total number of substantiated reports increased by about 25%.

The increase in reporting appears to have occurred uniformly across counties and regions in Pennsylvania. Also, the increase in reports appears to have

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occurred regardless of the specific types of mandated reporters. The annual report in 2015 modified the categories it used to classify mandated reporters so it is not possible to directly compare reporting patterns from 2014 or earlier years for all mandated reporters. However, for those classifications that stayed the same, the number of reports increased between 10% and 33%. For example, reports from schools increased from 8,619 in 2014 to 9,128 in 2015. Reports from law enforcement increased from 1,614 in 2015 to 2,585 in

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Promoting the Legal Recognition of Psychologists (and More)

Samuel Knapp, EdD, ABPP; Director of Professional Affairs

Dr. Marshall Brown of Lafayette College in Easton PA was the first individual licensed as a psychologist in Pennsylvania in 1974. Dr. Patricia Bricklin of Widener University was the second. Pennsylvania was one of the last states to license psychologists. The licensing bill, which finally passed in 1972, was the result of an effort in Pennsylvania that started in the late 1940s. Because psychologists did not exist as a legal entity before licensing, they were not enumerated in most state statutes or regulations.

At the time that psychologists first became licensed in Pennsylvania in 1974, relatively few psychologists worked in private practices. A large plurality of psychologists worked in public school systems. Practicing psychotherapy by psychologists was a revolutionary act in the 1950s. The American Medical Association had proclaimed that psychotherapy was a medical procedure that only physicians could perform (or practitioners working under the direction of a physician). A 1961 survey found that less than 10% of psychologists conducted psychotherapy. Few insurance companies paid for psychotherapy delivered by psychologists. I recall looking through old records of the PPA Ethics Committee in the 1960s and finding a psychiatrist who filed a complaint against a psychologist for practicing psychotherapy.

Gradually, PPA has worked to create a legal environment that would cement psychotherapy as an activity for psychology and gradually increased public access to psychological services. After the first essential step of getting psychology licensed as an independent health care profession, PPA endorsed a

“freedom of choice law” passed in 1978 which increased the extent to which private insurers recognize psychologists.¹

Since licensing, PPA has been trying to ensure the recognition of psychologists in statutes, where appropriate, that would allow psychologists to practice as their scope of practice permits. During every legislative session (a legislative session extends for two years from January of an odd year to November 30 of an even year; the current legislative session will last from January 3, 2017 to November 30, 2018). PPA will try to secure the passage of at least one bill that would extend the statutory recognition of licensed psychologists. We call this the *building block strategy* whereby a large structure is being constructed one brick at a time.

All of these changes, when put together, help the public get access to quality psychological services. It also separates psychologists from other non-medical health care professionals. For example, PPA's efforts have led to a provision which allows psychologists to evaluate those physicians suspected of having serious mental impairments that prevent them from practicing medicine competently. It is possible for a psychologist to naively say that “this law means nothing to me because I do not evaluate impaired physicians.” This reasoning suffers from major flaws. First, anything that elevates psychology's legal status makes a psychologist a more attractive employee. Second, these laws provide employment options in the event that psychologists do wish to branch out into other areas of practice. Finally,

¹ The freedom of choice law said that if a private insurer offered mental health services, that psychologists had to be an option as a treatment provider for the consumer.

being a psychologist entails a commitment to work for the public good. Even if individual psychologists fail to benefit directly or immediately from a statutory change, they should ask themselves whether the change helps improve public access to quality psychological services.

PPA will try to secure the passage of at least one bill that would extend the statutory recognition of licensed psychologists. We call this the building block strategy...

Many of these changes are not high profile. For example, a law was passed that allowed the Pennsylvania Department of Transportation to accept the reports of psychologists on the impairment of licensed drivers. This has probably not resulted in a large number of referrals for psychologists. Nonetheless, statutes such as this are important because they do result in some referrals for psychologists, and they set a precedent that makes it easier to get psychologists recognized in other statutes.

Here is an example of how statutory precedents work. Years ago, PPA secured the passage of legislation that required security guards to have a psychological evaluation before they could carry handguns at work legally. Later, when the legislature was considering evaluations for firefighters, they simply adopted much of the language that was used for security guard evaluations.

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PROMOTING THE LEGAL RECOGNITION OF PSYCHOLOGISTS

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This statutory recognition has a ripple effect into the private sector as well. For example, the national organization for bariatric surgeons requires a mental health evaluation (including those by psychologists) as a condition of doing bariatric surgery. This is not a legal requirement, but a standard of care established by a private organization. The reason that they identified psychologists (along with psychiatrists) is because they saw that psychologists were recognized by insurers and various state and federal laws as having assessments within their scope of practice.

State Laws or Policies Related to the Practice of Psychology

Here are some ways that psychologists are now embedded in Pennsylvania law:

Psychologists are

- the only non-medical mental health professionals without restrictions on scope of practice (social workers, licensed professional counselors, and licensed marriage and family therapists all must get consultation when treating persons who are suicidal, have a psychosis, or an apparently biological basis to their illness);
- reviewers within managed care companies for behavioral health services (only physicians and psychologists are enumerated to do this);

- capable of presenting sentencing recommendations in court for drug offenders (only physicians and psychologists can do this);
- leaders of multidisciplinary treatment planning teams under the Mental Health Procedures Act (only physicians and psychologists are enumerated to do this);
- the only non-medical profession mentioned specifically in the Health Care Facilities Act as eligible for hospital clinical privileges, and may serve on the medical staffs of private psychiatric hospitals in Pennsylvania;
- able to present expert testimony in civil cases pursuant to PA Rules of Civil Procedures (physicians, psychologists, and dentists alone are permitted to do this);
- able to diagnose emotional abuse according to Child Protective Services Law (only physicians and psychologists can do this); and
- court appointed to evaluate defendants claiming to be legally insane during criminal trials.

Psychologists

- evaluate impaired drivers (physicians, psychologists, and optometrists can do this);
- make return to play decisions for high school athletes with concussions;

The reason that they identified psychologists (along with psychiatrists) is because they saw that psychologists were recognized by insurers and various state and federal laws as having assessments within their scope of practice.

- receive direct reimbursement from Medicare (physicians, licensed clinical social workers, and psychologists are eligible to receive reimbursement directly from Medicare).² Medicare is especially important because psychologists were included in Health and Behavior Codes which some private insurers have subsequently adopted;
- develop treatment plans for children with autism (physician and physician extenders can do this);
- develop treatment plans for children under Behavioral Health Rehabilitation Services (BHRS) (only psychiatrists and psychologists are permitted to do this);

² Medicare is a federal program, but PPA was a national leader in promoting the direct recognition of psychologists under Medicare. The prime sponsor of APA's Medicare bill was Rep. William Coyne of Pittsburgh.

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PROMOTING THE LEGAL RECOGNITION OF PSYCHOLOGISTS

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- diagnose children with autism for purposes of ensuring mandated insurance benefits;
- treat worker's compensation patients upon a direct referral from the patient (previously psychologists could only receive referrals if a physician recommended it);
- evaluate candidates for carrying lethal weapons for security officers and municipal police employees. Also, evaluate candidates for fire fighters using heavy equipment;
- secure privilege on same basis as attorney-client communications for psychologists and patients (social workers, licensed professional counselors and marriage and family therapists do NOT have similar privileges; only psychiatrists and psychologists have a privilege on the same basis as the attorney-client privilege);
- establish treatment plans for patients receiving drug and alcohol treatment (only physicians and psychologists are permitted to do this);
- evaluate impaired physicians or impaired nurses (only physicians or psychologists are recognized to do this in the licensing law of physicians, osteopathic physicians, and nurses);
- conduct evaluations for the Office of Vocational Rehabilitation, evaluations for Social Security Administration for disability and temporary disability under Medical Assistance; and
- evaluate individuals who are accused as sexual predators.

Laws That Never Passed Because of PPA

In addition, over the years PPA has resisted numerous legislative efforts that would have seriously damaged

public access to psychological services. Often we work with a coalition of other health care providers. In many of these cases, PPA was the lead organization in defeating the proposed onerous legislation. Here are just a few of them in recent years:

- PPA worked against proposals that would have put the State Board of Psychology under an omnibus board with social workers, licensed professional counselors, and licensed marriage and family therapists.

PPA has had different perspectives on issues than the State Board of Psychology and we believe that our input into the process of developing regulations has helped improve the quality of psychological services.

- PPA worked to stop legislation that would remove licensees of any health care profession who were accused of being delinquent in state taxes.
- PPA worked to stop legislation that would send any health care professional to prison (and automatically lose their licenses) for failure to report suspected child abuse, even if the health care professional had no reasonable basis to suspect abuse.
- PPA worked to stop legislation that would have required psychologists (and other non-physician health care professionals) to wear name tags while performing any professional work (presumably even while talking to patients over the phone!).
- PPA stopped regulations that would have removed the state requirement for school psychologists to perform evaluations for children in many categories of disability including developmental disability, emotional limitations.

Bills in the Public Interest

Although PPA focuses its legislative effort primarily on bills and regulations promoting the practice of psychology, it has often worked on issues related to the public interest in general, such as ensuring adequate insurance coverage for persons with mental illnesses, ensuring rights for disabled persons, working to pass family and medical leave legislation, promoting efforts to protect older adults from abuse, and so on. Recently PPA efforts led the Department of Education to look at the impact of school start times on sleep patterns of school children. PPA was the lead group in getting the Department of Education to ban corporal punishment in the public schools, and so on.

Other Governmental Work by PPA

PPA regularly sends a representative to the meetings of the Pennsylvania State Board of Psychology. Pennsylvania has been fortunate to have Board members who conscientiously fulfill their obligations to promote public welfare. Nonetheless, at times PPA has had different perspectives on issues than the State Board of Psychology and we believe that our input into the process of developing regulations has helped improve the quality of psychological services.

PPA also monitors proposed regulations from other government agencies such as the Department of Education or the Insurance Department to see if they negatively impact the public welfare.

PPA has developed amici briefs in several cases involving public access to quality psychological services and more.

This is not to imply that everything is fine for psychology in Pennsylvania. We face many challenges today, but the work of promoting and protecting psychology has never been easy. PPA needs the continued support of its members to ensure public access to psychological services. But, if anyone ever asks you what has PPA ever done for psychology in Pennsylvania, show them this article. 📄

CHILD ABUSE REFORMS

Continued from page 1

2015 and reports from private psychiatrists and psychologists¹ increased from 443 in 2014 to 626 in 2015 (Department of Human Services, 2015; Department of Human Services, 2016).

Also, the increases of substantiated reports of abuse occurred regardless of the nature of the suspected abuse. Cases of substantiated physical abuse and sexual abuse increased (1,192 cases of physical abuse in 2014, and 1,696 in 2015; 2,485 cases of sexual abuse in 2014 and 2,753 in 2015; Department of Human Services, 2015; Department of Human Services, 2016).

Historically Pennsylvania has had very low rates of substantiated cases of neglect and emotional abuse. The legislature expanded the definition of neglect which was followed by an increase in the number of substantiated cases (239 cases of neglect in 2014 and 367 in 2015). The legislature also expanded the definition of serious mental injury which was followed by an increase in the number of substantiated cases (25 cases of emotional abuse in 2014 and 81 in 2015; Department of Human Services, 2015; Department of Human Services, 2016). PPA worked

¹ The report refers to private psychiatrists. However, in a personal communication with officials from the Department of Human Services, I learned that psychologists in private practice are included in the reporting statistics with psychiatrists in private practice.

hard to promote these expanded definitions of child abuse.

In addition, the 2014 amendments to the Child Protective Services Law specifically added new categories of child abuse such as having a child in a location where there is a meth laboratory, or forcibly striking, shaking, or slapping a child under the age of 1. In 2015, there were 107 substantiated cases of having a child in a location where there is a meth lab, but only 12 cases for striking, shaking, or slapping a child under the age of 1. Striking, shaking, or slapping children under the age of 1 would have likely fallen under the category of physical neglect before the amendments, so it is unlikely that these additions increased the number of children in protection (although the new wording makes it easier to identify and substantiate those types of abuse).

Unfortunately, these reports left many important questions unanswered. Although the number of substantiated reports has increased, we do not know how much of the change was due to increased vigilance on the part of mandated reporters in making reports, how much to the expansion of conditions under which mandated reporters must now report abuse, and how much of the change was due to changes in the actual criteria used to define child abuse. Also, we do not know how much of the increase in substantiated reports was due to the controversial provisions that removed the direct

connection between a mandated reporter and a child as a requirement for making a report.

The expanded definitions of neglect and serious mental injury may have increased the number of substantiated cases, although Pennsylvania still lags far behind other states in the identifica-

In addition, the 2014 amendments to the Child Protective Services Law specifically added new categories of child abuse such as having a child in a location where there is a meth laboratory, or forcibly striking, shaking, or slapping a child under the age of 1.

tion of neglect and mental injury. However, the low substantiated rate may, in part, be an artifact of data collection and categorization. Some states take great pains to identify multiple bases for child abuse. So a child who is mentally injured as a consequence of physical abuse in one state might be listed as a child who has been both mentally and physically injured. Pennsylvania, however, tends to pick one form of abuse (usually physical abuse) and enter that

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CHILD ABUSE REFORMS

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into its data system, even though the rehabilitation plan may include mental health services for the child.

Also, part of the reason for the low number of substantiated cases of neglect and mental injury may occur because many of these cases may have been referred to General Protective Services (GPS). Unlike child protective services, which is designed to investigate cases of abuse, GPS is designed to provide services to children for “non abuse cases requiring protective services” (23 Pa. C. S. A. §6303 (a)) which has the goal to provide services to children for several reasons including to “prevent abuse, neglect and exploitation” (23 Pa. C. S. A. §6373 (a) (2)). Whenever possible, children should be kept in their own homes. However, when necessary, substitute care may be arranged. Implicit in the goal of GPS is to provide services to parents “in recognizing and remedying conditions harmful to their children” and in helping them to fulfill “their parental duties more adequately” (23 Pa. C. S. A. §6374 (b)).

Although reports for GPS services can be made through ChildLine, referrals to GPS are not child abuse investigations. Rather Children and Youth investigators will determine if the children are safe and whether the family needs services. Often the cases referred to General Protective Services involve inadequate care, substandard shelter, truancy, inappropriate discipline, or physical injury that does not rise to the level of child abuse. However, the risk of abuse does exist.

Until 2015, counties were not required to report data on the GPS services to the Commonwealth. As a result, GPS was a black box from the standpoint of public policy, because no one knew for certain the number of children being served statewide or the nature of their problems. However, amendments to the Child Protective Services Law now require counties to report GPS data to the state. Data contained in the 2015 report show that a substantial number

of children that were receiving inadequate shelter, food, or supervision were being served by GPS. Many of these children would be classified as victims of neglect in other states. The classification system for GPS also includes a category of “child mental health concerns” which may overlap with what other states would consider to be emotional abuse. Consequently, Pennsylvania’s efforts to protect children who are victims of serious physical neglect or serious mental injury may be better than it would appear from looking at reports of suspected child abuse alone.

Lack of adequate funding may also impact the quality of services received by the children within the system.

According to national child abuse statistics, Pennsylvania has been one of the lowest states in terms of identifying child abuse. However, when the 34,000 children involved in GPS are considered, Pennsylvania begins to approach other states in terms of protecting children (Department of Human Services, 2016).

Also, Pennsylvania has a very low rate of substantiated reports of child abuse which in 2015 fell to 8.5%. In 2000 it was 22% (Department of Public Welfare², 2001) and in 2010 it was 15% (Department of Public Welfare, 2011). Again, this may be due, in part, to the screening of many reports to GPS, where 37% of their reports were considered valid.

Nonetheless, Pennsylvania’s child protective service system still has problems. I have heard many complaints over the last year about difficulty filing a report, including getting through on ChildLine, although the problem does not seem as bad as it was last year. In part, they may reflect the legislator’s willingness to invest sufficient resources to handle the influx of new reports. The

²In November 2014, the Pennsylvania Department of Public Welfare was re-named Pennsylvania Department of Human Services with the passage of Act 132 of 2014.

expenditures for investigation child of abuse increased only slightly from 2014 to 2015. Pennsylvania spent \$46.6 million in 2014 on investigation compared to \$52.6 million in 2015, a 13% increase although the actual number of reports increased 33% (Department of Human Services, 2015; Department of Human Services, 2016).

Lack of adequate funding may also impact the quality of services received by the children within the system. Fortunately, evidence is gathering that interventions can stop or prevent many types of child abuse (e.g., Hanson et al., 2016). However, the ability of Pennsylvania to implement these evidence-informed programs depends, to a large extent, on its ability to attract and retain qualified child welfare workers. Those who work in the child welfare system deserve our deep appreciation and they should receive adequate rewards in terms of money and work conditions to make this work a career. The financial pressures on state governments created by the Great Recession limited the state’s ability to maintain its workforce, although the 2015 budget made great strides in restoring much of the cutbacks.

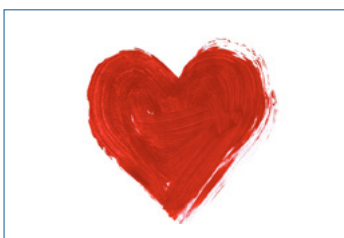
Overall the series of reforms to Pennsylvania’s child welfare system appeared to have had some positive impact in terms of identifying abused children. Many questions remain, however, about the usefulness of some provisions (such as reporting abuse on children not seen by the mandated reporter). ▮

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Check out PPA's Exciting Upcoming Events

PPA has some great events for our members on the horizon. Hopefully you can join us for one or more of these exciting CE programs!



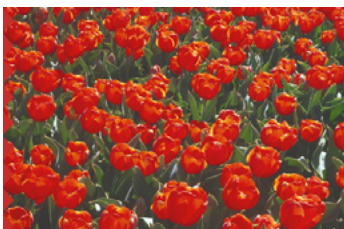
Monday, Feb. 13, 12 p.m. – 1 p.m.: A Heartfelt Webinar on Diversity

The webinar will be presented by three members of PPA's Committee on Multiculturalism: Dr. Williametta Bakasa, Dr. Jeanne DiVincenzo, and Dr. Jeffrey Sternlieb. The three speakers will discuss contemporary issues related to diversity including an examination of sexism, racism and more on psychology practice.



Friday, March 3, 12 p.m. – 1 p.m.: Top Ten Tips for Starting a Private Practice Webinar

This webinar is a can't-miss for psychologists interested in opening their own private practice. Dr. Rosemarie Manfredi, chair of PPA's ECP Committee will help you avoid perils and pitfalls by providing you with tips that will help your private practice prosper.



Thursday, April 27 – Friday, April 28: PPA Spring Continuing Education & Ethics Conference

Join PPA for the 2017 Spring Continuing Education Conference at the beautiful Sheraton Erie Bayfront in Erie, PA. This is an invaluable opportunity to earn up to 14 hours of CE credit as we're nearing the licensure renewal cycle! Come network with colleagues and gain valuable CE credit in a pristine seaside locale.



Sunday, May 7 – Leadership Academy

This invitation-only event educates members about the Pennsylvania Psychological Association and offers great information about becoming a leader within PPA and the field of psychology. It will take place at the PPA office, 5925 Stevenson Avenue, Harrisburg, PA 17112. Want to make sure you get an invitation? Email Judy Smith (judy@papsy.org) to let her know of your interest!



Monday, May 8 – PPA Advocacy Day

Come to Harrisburg, visit the Capitol Building and help shape mental health policy! At PPA's Advocacy Day, you will receive 1.5 CE credits as we inform attendees about the legislative process and initiatives we are pursuing. This day, which provides you with an opportunity to meet with your local state representative or senator, can't be missed.




Wednesday, June 14 – Saturday, June 17: PPA2017 Annual Convention

Visit the gorgeous Bedford Springs Resort for the PPA2017 Annual Convention, where we make it our goal to help you Live a Little and Learn a Lot! At this year's convention we will have many workshops and sessions promoting the theme of Striving to Overcome Interpersonal Violence. We hope you join us for PPA's biggest and brightest event!

Classifieds

PHILADELPHIA Center City, Fittler Square. — Four beautiful designer-decorated offices, three waiting rooms. Fireplaces, decks, garden, a/c, cathedral ceiling, skylight, kitchen, Wi-Fi, fax, buzzer for each office. Over bridge from U/Penn. Psychiatrists and learning disabilities specialist on premises. Parking option. Flexible arrangements: Full time, day, hour. Reasonable rent. 215-546-2379, marlabisaacs@gmail.com 



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2017 PPA Continuing Education

PPA is continuing its long-standing tradition of offering high-quality CE programs to psychologists. In 2017, we are looking to expand these options – we hope you'll join us for one or more of these programs!

Calendar

The following programs are being offered either through cosponsorship or solely by PPA.

2017 Spring Continuing Education Conference

April 27–28, 2017
Sheraton Erie Bayfront
Erie, PA

2017 Leadership Academy

May 7, 2017
Harrisburg, PA

PPA Advocacy Day

May 8, 2017
Harrisburg, PA

PPA2017 – PPA Annual Convention

June 14–17, 2017
Omni Bedford Springs Resort
Bedford, PA

2017 Fall Continuing Education and Ethics Conference

October 26–27, 2017
Eden Resort & Conference Center
Lancaster, PA

Webinars and Home Studies

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Podcasts

Podcasts for CE credit by Dr. John Gavazzi are available on papsy.org.



For CE programs sponsored by one of the Regional Psychological Associations in Pennsylvania, visit papsy.org.

Registration materials and further conference information are available at papsy.org.

Home Study CE Courses

Pennsylvania Child Abuse Recognition and Reporting: 2017 (Act 31 Approved)
2 CE Credits

Medicare's 2016 Physician Quality Reporting System (PQRS)
1 CE Credit

The Assessment, Management, and Treatment of Suicidal Patients (approved for Act 74)
1 CE Credit / 3 CE Credits

*Ethical Practice Is Multicultural Practice**
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Judy Smith, (717) 510-6343, judy@papsy.org.