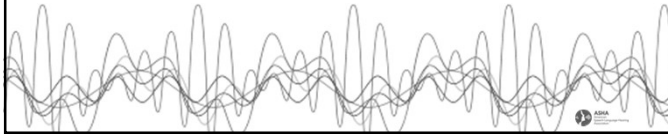


Trending Issues in States: What's New on the Horizon?

Janet Deppe, MS CCC-SLP FNAP



Disclosure

- Financial-I am an ASHA employee
- Nonfinancial-I support ASHA's public policy initiatives and serve as the ex-officio to ASHA's School Finance Committee



State Issues

- Professional Practice
 - Occupational licensure reform and private certification
 - Interstate Licensure Compact- Update
 - Regulation of Assistants
- Scope of Practice Issues
 - Music therapy
 - Role of the Audiologist/SLP in the treatment of Autism
- Consumer Issues
 - LEAD-K
- Patient, Client and Student Issues
 - School Choice



State Issues

- Health Care Issues
 - Medicaid Managed Care
 - Utilization Management/Prior Authorization
 - Telepractice
 - Hearing Aid Coverage
 - Short Term Limited Duration Plans



Occupational Licensure and Professional Certification- A Deeper Dive

- Licensure-
 - recognizes the importance of competency standards to ensure public protection
 - Tasked with enforcing competency standards
- Professional Certification-
 - voluntary process granting recognition to individuals who meet competency standards
- Licensure ensures that:
 - Minimum competency standards are maintained
 - Consumers have recourse when harmed by a licensed professional
 - Enforcement of licensure standards maintains a competent work force



Occupational Licensure and Professional Certification

- Professional Certification
 - provides reliable measures of competence to employers, health plans, insurers, consumers and the public
 - Job task analysis regularly undertaken by private certification organizations defines knowledge, skills and abilities
- Certification is important for certificate holders in the following ways:
- Certification programs *develop* people; helping them maintain required knowledge and skills
 - Certification programs *qualify* people, confirming that they have acquired the knowledge, skills and abilities for the profession
 - Certification programs *differentiate* people with different levels of professional proficiency or specialization
 - Certification programs *recognize* people acknowledging or rewarding those who perform to a standard



Occupational Licensure Reform (OCL)

- Occupational Licensure is under threat by national and state organizations such as the Institute for Justice (IJ) and American Legislative Exchange Council (ALEC)
 - IJ states that occupational licensure is the most restrictive form of occupational regulation
 - IJ states that most licenses are created by professionals working in the occupation to provide benefits to licensed workers including
 - Restricting entry
 - Increasing costs for services
 - Stacking licensure boards with professionals from the relevant occupation who can exclude competitors from the field (monopolizing the profession)
 - IJ and others contend that licensure
 - Requires exams that are burdensome
 - Create blanket denials to those with criminal backgrounds
 - Reduce mobility



Occupational Licensure Reform (OCL)

Four categories

- Criminal re-entry
 - Some licensure laws automatically restrict individuals with a criminal history from obtaining a license
 - ASHA supports expanded opportunities for ex-offenders to help earn a living and reduce recidivism as long as this is balanced against the need to protect the public and allow the boards to consider relevant information in determining whether or not to grant a license
 - There are many "Fair Chance Licensing bills" which ASHA does not oppose
- Right to Earn a Living Act- OK SB 651
 - Requires licensure boards to repeal regulations unless they can meet a high standard of burden
 - Allows private lawsuits to go forward with injunctive relief unless the board and demonstrate that a less restrictive regulatory alternative to licensure will not be sufficient



Occupational Licensure Reform (OCL)

- Government vs. Private Certification- OH SB 255
 - Creates a voluntary state certification that is a waste of money given that well established private certification programs exist
 - State government officials lack the subject matter expertise to establish a government certification to compete with private sector certification programs
- Unlicensed Consumer Choice – WV HB 2697
 - Creates a category of unlicensed practice allowing an individual to work in a licensed profession as long as the person does one of the following:
 - Puts a disclosure notice on their web page
 - Sends a letter to a consumer indicating they are unlicensed
 - Posts a notice on the facility where the consumer will receive the services from the unlicensed person
 - Provides the consumer with a notice that requests that the consumer acknowledge in writing that they are entering an agreement with an unlicensed provider



Professional Certification Coalition (PCC)

- The PCC was formed to address efforts to enact state legislation that undermine recognition of private certification and occupational licensure
- ASHA and about 125 organizations belong
- This year ASHA and the PCC tracked:
 - 55 state bills to enact burdensome occupational licensure reform/Government vs. Private Certification
 - Only HB 1302 in AR passed
 - 2 bills in PA (HB 811 and MI (HB 4488) are still pending



Interstate Licensure Compact Update

- The Interstate Compact ASLP-IC has been approved by the Advisory Committee
- Conference calls were held this fall with state association leaders to elicit support and identify legislators who may be willing to sponsor legislation in the state
- Letters of support are being elicited from over 75 professional organizations
- A toolkit has been developed as well as additional information about the benefits of an interstate compact and can be found at: <https://www.asha.org/Advocacy/state/Audiology-and-Speech-Language-Pathology-Interstate-Compact/>



Interstate Licensure Compact Update

- Five state legislators have indicated that they will sponsor legislation in the 2020 session (Georgia, Kentucky, Nebraska, Utah, Wyoming)
- To learn more, plan to attend the following session at convention: Interstate Licensure Compact: Imagine More for Our Professions: Saturday, November 23, 11:30 – 12:30, Room 311GH



State Regulation of Assistants

- States are continuing to introduce legislation to regulate assistants: (MN, NM in 2019)
- Currently 9 states license for school practice
- 14 states license for non-school settings
- Educational requirements vary
 - GED- enrollment in a graduate program
- Terminology is inconsistent
 - assistant
 - technician
 - aide
 - paraprofessional



ASHA's Assistant Certification

- ASHA's assistant certification program:
 - include several pathways and;
 - a national exam
- ASHA's certification will help states who wish to regulate assistants set standards based on ASHA requirements
- Many issues still need to be considered that will affect implementation of the certification program
 - State licensure
 - Reimbursement – qualifications, coding accreditation
 - Continuing education requirements



Scope of Practice Issues

- Music therapy licensure
- Met with AMTA (10/19) to review revised model legislation
 - AMTA addressed most of ASHA's concerns including collaboration with education and healthcare treatment teams
 - AMTA revised guidance on billing/coding issues
 - Planning meeting after convention to see if we can agree on language
- 12 states introduced 18 bills
- VA passed SB 1547 that requires the Board of Health Professions to determine whether or not MTs should be regulated. Report due 11/19



Scope of Practice Issues

- Therapy for individuals with Autism Spectrum Disorder (ASD)
 - 2018 autism awareness campaign using Google, LinkedIn and Twitter
 - Targeted pediatricians and other healthcare professionals, early intervention and school administrators, policy makers and families
 - 2019 developed a toolkit for families:
<https://www.asha.org/uploadedFiles/ASHA-SLP-ASD-Flyer.pdf>
- ABA Infringement issues:
<https://www.asha.org/Advocacy/Applied-Behavior-Analysis/>
 - ASHA Hot Topics resource on ABA includes
 - Informational bulletins from the US Department of Education and CMS
 - Talking points
 - Issue Brief



LEAD-K- Language Equality and Acquisition of Deaf- Kids

- 16 states introduced LEAD-K legislation in states in 2019
 - four bills passed (NV, NJ, ME and IN) NJ and IN had significant amendments
- ASHA made repeated attempts to meet with the National LEAD-K coalition but could not come to an agreement
- ASHA participates in a parent choice coalition opposed to many state LEAD-K measures
- ASHA supports:
 - A families right to decide the best language and /or communication method for the child who is deaf/hard of hearing (D/HH)
 - Including ASL, spoken language or a combination
 - The development and distribution of a comprehensive parent resource
- ASHA has information on its website:
<https://www.asha.org/Advocacy/LEAD-K/>



School Choice

- US Department of Education supports state efforts to expand school choice
- Active school choice programs in FL, AZ, LA and IN
- ASHA support families right to select the school program that meets their child/family needs, as long as families understand the benefits/drawbacks of their choice
- ASHA supports school choice programs that:
 - Do not decrease funding from public system
 - Maintain the same quality standards for teachers and other staff (meet state credentialing standards)
 - Maintain the same standards for student achievement
 - Uphold equal access to the full range of services for children with disabilities
 - Comply with applicable laws (IDEA, ADA, 504)
 - Maintain privacy protections under HIPAA and FERPA



Growth of Medicaid Managed Care Organizations (MCO)

- 37% of school-aged children are covered by Medicaid/CHIP
- Nearly 2/3 are enrolled in MCOs
- MCOs may be able to set reimbursement rates lower than Medicaid (determined by state)
- MCOs will be implementing prior authorization so providers will need to know the requirements
- Laurie Alban Havens at lalbanhavens@asha.org is the contact



Utilization Management/Prior Authorization Concerns

- Rapid Growth of Third-Party & In-House Utilization Management

Utilization Management:

"The evaluation of the medical necessity, appropriateness, and efficiency of the use of health care services, procedures, and facilities to control health care costs."

Elements include:

- Prior-Authorization
- Medical Necessity Review
 - Often thought of as exclusively the patient's medical need for care but it is also an evaluation of whether or not the reviewer deems the suggested intervention as necessary and appropriate to address the patient's needs.
- Limited Approvals with designation re-authorization requirements for ongoing care.
- Michelle Cobb-King at mcobb-king@asha.org is the contact.



Telepractice

- 2019 nearly all states and DC have some Medicaid coverage
- Audiologists/ SLPs primarily use live video which is accepted by most states
- Unless state guidance or state licensing rules specifically require in-person therapy, telepractice can be utilized
- Payer may choose to reimburse for the service
- Laurie Alban Havens at lalbanhavens@asha.org or Tim Boyd at tboyd@asha.org are the contacts



Changing Eligibility Requirements in Medicaid

- Work requirements passed in several states- (mostly those that expanded Medicaid) AR, KY NH
- Work requirement rules challenged in the courts
- Rescinding optional coverage for adults- TN
- New limits on frequency/duration
- More frequent re-authorization requirements



State Hearing Aid Mandates and Reimbursement

- Many Medicaid Programs, Medicare Advantage Plans and even Private Health Plans are expanding hearing aid coverage.
- third-party reimbursement with dedicated processes.
- Limited reimbursement rates for the device.
- Mixed approaches between bundled payment and individualized fee for service for devices and related hearing health services.
- Driven by federal discussions regarding hearing aids:
- [President's Council of Advisors on Science & Technology](#)
- [National Academies of Science, Engineering & Medicine](#)
- Federal Legislation for Medicare Coverage of Hearing Aids
- Tim Nanof at tnanof@asha.org is the contact.



Short Term Limited Duration Plans (STLD)

- Designed as a short-term gap in insurance
- Exempts Affordable Care Act (ACA) protections
 - EHB coverage
 - Cap on coverage
 - Preexisting conditions
- 2018 rules prohibited sale of STLD beyond 3 months
- 2019 rules allow plans extended for up to three years
- Consumers and providers need to be aware of the limitations of these plans
- ASHA has a toolkit with an FAQ, issue brief and resources to help associations oppose/mitigate these plans
- Contact your state liaison for more information

