Great News! Texas Marriage & Family Therapists Can Continue to Diagnose

written by Guest Author | March 15, 2017

This blog is an update to our previously posted blog "Update: The Texas Association for Marriage & Family Therapist Case" outlining the case in Texas regarding the right to diagnose for Texas Marriage and Family Therapists.

The Texas Licensed Marriage and Family Therapists Act (TEX. OCC. CODE §§ 502.001–.455.) authorized licensed marriage and family therapists (LMFTs) to provide professional therapy services that included "the evaluation and remediation of cognitive, affective, behavioral, or relational dysfunction in the context of marriage or family systems. In 1994, the Texas State Board of Examiners of Marriage and Family Therapists (TSBEMFT) adopted a rule that permits licensed marriage and family therapists (LMFTs) to provide "diagnostic assessment . . . to help individuals identify their emotional, mental, and behavioral problems."

In 2008, the Texas Medical Association (TMA) filed suit asserting that the rule was invalid because the Texas Occupations Code does not authorize LMFTs to provide diagnostic assessments. TMA asserted that, subject to a few exceptions that do not include LMFTs, only those who are licensed to practice medicine may provide a diagnostic assessment. TMA argued that if LMFTs made a diagnosis using the DSM or ICD codes they would be guilty of the unlawful practice of medicine.

TMA convinced a Texas Court of Appeals to accept its argument that there is a meaning distinction between the word "evaluation" that appeared in the cited Texas Occupations Code section above and "diagnosis" the word used in the act regulating physicians in Texas. This decision was put on hold while the case was appealed to the Texas Supreme Court.

This decision caused significant alarm through the mental health community in Texas and would have negatively impacted the delivery of mental health services in Texas. Fortunately, common sense interpretation of the language and intent of the act regulating marriage and family therapists prevailed in the end. On February 24, 2017, the Texas Supreme court ruled that the Texas Occupations does authorize LMFTs to provide the type of diagnostic assessment the TSBEMFT's disputed board rule permits. It reversed the court of appeals' judgment and rendered judgment that the rule is valid.

My favorite sentence in Supreme Court Justice Jeffrey S. Boyd's opinion is, "Our diagnosis is that the diagnostic-assessment rule is valid."

Had the court of appeals decision been allowed to stand another suit probably would have been brought to address a similar situation with licensed professional counselors in Texas jeopardizing even more

mental health professionals' ability to secure insurance reimbursement for their services without first involving a physician to render a diagnosis. I usually do not find Texas and its court system to be consumer friendly but this decision is a big win for Texas consumers.

Provided by trusted attorney Tom Hartsell and CPH Insurance, your leading provider for professional liability insurance for mental health practitioners.