

September 30, 2003

The Honorable John Carey
Ohio Senate
Statehouse
Columbus, OH 43215

Re: DRAFT MH Custody Relinquishment Legislation, LSC 125 0670

Dear Senator Carey,

Thank you for your efforts to assist families needing Mental Health Services for their children. PCSAO shares your strong value for this topic. We also appreciate the opportunity to have an advance review of your draft legislation on this topic.

After reviewing the draft, PCSAO has several comments and concerns, as outlined below.

Efforts to Pro-Actively Address the Need for Mental Health Services:

- **PCSAO actively and strongly advocated for adequate mental health resources in the recently passed Biennial Budget.** As the lead member of the Emergency Campaign to Protect Ohio's Future, PCSAO Legislative Director Gayle Channing Tenenbaum, led the charge to work with Senate members to restore \$11.8 Million in cuts made to ODMH. The Ohio Senate did restore the funds, and the restoration was maintained in the final approved Conference Committee Budget. We very much appreciate your support of this.
- PCSAO has strongly supported and is working with ODMH, the local ADAMH Boards and providers, ODJFS Medicaid and the Office for Children and Families, and other key stakeholders to effectively create **Medicaid funding mechanisms to fund Intensive Home and Community Based Services** so children can receive services in their own homes and communities, vs. needing to be placed outside of their homes and communities to receive needed treatment. The Biennial Budget included language allowing Ohio to revise its community Medicaid plan to allow this.
- **PCSAO is working with ODMH, ODJFS and other key stakeholders as Medicaid funded Partial Hospitalization is revisited** as a Medicaid funded service - language allowing a rewrite of our community Medicaid

plan for this service was also included in the Biennial Budget. This service provides intensive day treatment for children and youth in their communities, or in group or residential treatment. It appears the revision discussion is aimed at ***narrowing these services for youth needing intensive mental health treatment services.***

- PCSAO chaired the group that was charged with responding to the federal **Child and Family Services Review report, that indicated Ohio is deficient in its availability of adequate mental health services for children involved in the child protection system.** This was due to lack of available mental health services, and long waiting lists for treatment services. This finding has been identified in each of the 30+ states that have had a Child and Family Services Review. A major recommendation of the multi-system group was to increase the resources for community behavioral healthcare by increasing the excise tax on alcoholic beverages. While included as a part of Governor Taft's budget as introduced, as you know, the General Assembly did not include that as a part of the final Biennial Budget. Other recommendations included increase of intensive home and community based services (addressed earlier), cross system training of professionals, and more effect screening for behavioral healthcare issues (I provided a training to 130 school nurses on Sept. 26, addressed was their opportunity to identify behavioral health issues, for professional assessment through Ohio's HealthCheck, (also know as Medicaid's EPSDT - Early Periodic Screening, Diagnosis and Treatment).
- PCSAO has consistently supported, and continues to support **Mental Health Parity Legislation** which would have private insurance policies offer behavioral healthcare benefits on par with medical benefits. Representative Lynn Olman, HB 33 and Senator Kirk Schuring, SB 88 have both introduced such Ohio legislation. Neither have progressed to the other side of the house. As you know, this legislation has yet to pass.

There are other specific activities PCSAO is engaged in to address this issue, but these are the major items.

Of course, the need for mental health services for children has been a national debate, with a major GAO report issued in 2003 - *"Federal Agencies Could Play a Strong Role in Helping States Reduce the Number of Children Placed Solely to Obtain Mental Health Services"* which addresses inappropriate placement of children within the Juvenile Justice and Child Welfare systems. Appreciation for the major points of the Bazelon Center for Mental Health law, testimony to Congress, that LSC included with the DRAFT legislation.

"Neither the juvenile justice nor the child welfare system is designed to address children's mental health needs."

"Custody relinquishment is largely the result of the failure of all child serving agencies, but particularly mental health and education agencies."

"The single most important obstacle that pushes families into giving up custody is a lack of access to appropriate and timely mental health services and supports..."

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The Bazelon Center's testimony included these Recommendations/Removing the Barriers:

- Adoption of the federal "Family Opportunity Act / Medicaid Home and Community Based Services Waiver" - while this is federal legislation, Ohio is working hard to rewrite our state Medicaid plan to enhance ability to fund community based MH services.
- "Insurance Reform" - Bazelon recommends enacting Mental Health parity legislation similar to the two bills that are pending in Ohio now.
- "IDEA Reauthorization" - this federal education law and funding would require schools to adopt positive behavioral intervention strategies and supports.
- TEFRA Medicaid Option - While Ohio has not entered into a debate to adopt this Medicaid Option that award community services waivers to children that would otherwise have to reside in a medical institution, it has been selected by 20 other states, and 10 of those states have included children with mental illness under eligibility guidelines.
- Re: "...statutes that prohibit child welfare from requiring custody relinquishment in order for parents to obtain mental health services...must be coupled with efforts to address the underlying cause - the lack of mental health services. A ban alone will not reduce the number of children placed into the child welfare system solely for mental health purposes."

PCSAO concerns with the DRAFT Legislation - simply put, this legislation seems to require nothing of any entity except the Public Children Services Agency. There is no requirement for local ADAMH Boards to participate or contribute to the cost of placement.

PCSAO has serious concerns about this legislation. We are very interested in proactively working on strategies to assist families in accessing mental health services for their children. Opening the door to placement of children into the child welfare system solely for mental health purposes is not the answer. Our PCSA Legislative Committee is analyzing the bill this month, and we will be able to give very specific feedback later in October, 2003.

Sincerely,

Crystal Ward Allen
Executive Director