

order to establish jurisdiction in a clear, organized way throughout the state. This can be most easily accomplished by creating a general provision to the Texas Government Code that mirrors the provisions already in use by several county enabling statutes. The Legislature should add a provision to the Texas Government Code so that Section 25.0003(c) would read:

§ 25.0003

...

(c) In addition to other jurisdiction provided by law, a statutory county court exercising civil jurisdiction concurrent with the constitutional jurisdiction of the county court has concurrent jurisdiction with the district court in:

...

(3) family law cases and proceedings

This would mirror the language used by Government Code § 25.0222(a)(3) and cited in *Underwood*. Such an addition would make true the *Underwood* court's statement that "[t]he Government Code does not impose a monetary limit on the county court's jurisdiction over 'family law cases and proceedings.'"¹⁷ Of course, to fully solve the problem, the Legislature will also have to address and grandfather in the potential void divorces that have fallen through the cracks over the years. At a minimum, the nineteen counties most at risk for this problem should consider revising their enabling statutes.

What's in a name? Parenting Coordination vs. Family Psychotherapy

by
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Recently some of my colleagues and I have run into a string of attorneys and litigants calling us to ask if we accepted health insurance for parenting coordination services. This was surprising at first, as it was akin to someone calling up and asking if we would bill their health insurance for mediation, but this has now happened with sufficient regularity that it seems that there may be a common misconception developing that should be addressed.

First let's look at how psychotherapy and other reimbursable services are billed. The vast majority of insurance companies look at two major factors in authorizing payment: diagnosis and CPT code. Diagnosis is something that most laypersons have familiarity with – labels such as depression, bipolar disorder, alcohol dependence, etc. CPT stands for "current procedural terminology" and the CPT codes, published by the American Medical Association, define the nature of a particular healthcare service for billing purposes.

Each insurance provider will have rules and procedures regarding for which diagnosis and CPT code combinations they reimburse. Like many health care services, there are mental health services that may have CPT codes and, while important for a patient's health, are not covered by insurance.¹⁹ Similarly there are diagnoses in both physical and mental health for which insurance companies will not reimburse.

Implicit in this diagnosis and coding paradigm are a number of assumptions about creating treatment plans, setting measurable treatment goals and acting within the bounds of accepted practices for mental health professionals. Explicit in this para-

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¹⁹ An excellent example of this is Medicare's lack of coverage for some preventative medicine services offered by physicians, see <http://www.aafp.org/fpm/20040400/49maki.html> for instance

¹⁷ Underwood, 902 S.W.2d at 154.

digm is where the focus of service, choice of directions, and the chief duty, is owed: to the clients seen in psychotherapy and the issues that they wish to bring to the psychotherapist.

Parenting coordination serves a different function and operates under a different paradigm – as currently defined in Texas statutes the role of a PC is “to assist the parties in resolving parenting issues” (TFC 153.605). Additionally the “duties of a parenting coordinator must be specified” by the court appointing the PC (TFC 153.606). The role is narrow in scope, and rather than the direction of services being set by the participants it is spelled out in the court order. Likewise, the overriding goal of the process is **dispute resolution** rather than psychotherapeutic insight or alleviation of emotional difficulties.²⁰

The inherent difference in psychotherapy and dispute resolution functions that mental health professionals may be involved in is not only recognized in the professional literature,²¹ but can also be seen in Texas licensing laws. Definitions of professional therapeutic services for Licensed Marriage and Family Therapists (TAC 801.42) detail family therapy and mediation as separate areas of professional practice. Both are **therapeutic**, but only one is **therapy** – not just a semantic difference, but also one that acknowledges that there are differences in goals and procedures inherent in treatment and dispute resolution services.

That all being said, let’s bring this back to submitting a bill for PC services to a healthcare insurance company. Mental health professionals are required to bill only for those services actually rendered.²² There is no CPT code for “parenting coordination”²³ and so any billing through insurance will have to involve “creative” shoehorning into a covered area. Secondly there is no diagnosis inherent in PC work (again, just as there is no diagnosis inherent for persons who become involved in mediation). Even for those families where there is a diagnosable mental health condition noted for one or more of the family members, parenting coordination is not treatment for that (or any) particular diagnosis.

Mental health professionals of all stripes have a duty to be forthright in their dealings, both with their patients and the public at large. The problems in “creative” billing submissions should be readily apparent, especially the associated perils of fraud allegations that could accompany such submissions. If a health insurance company clearly understands that parties are participating in a court-related dispute resolution process related to their co-parenting difficulties and chooses to provide some sort of reimbursement that’s great! Having struggled with managed care limits most of my professional career it seems unlikely, but hope springs eternal.

If parents want to participate in a service that is covered by health insurance then they should consider family therapy (court ordered or otherwise) – an old standby that, with a litigation-aware professional, can have substantial positive outcomes for parents who are motivated to gain personal insight and willing to change their behaviors. If the parties are in need of a dispute resolution process parenting coordination or mediation may be the more appropriate way to go. There are also non-confidential services under various names²⁴ (too numerous to detail fully in this short article) that, in line with current national parenting coordination practices, provide methods for reporting back to court when monitoring of treatment compliance or other serious issues exist in a family system.

²⁰ To further reinforce this point, PC is currently covered under the same ADR confidentiality provisions as mediation – see TFC 153.0071(g)

²¹ See for instance Kirkland & Kirkland (2006) Risk management and aspirational ethics for parenting coordinators. *Journal of Child Custody* 3(2), at 40

²² See for instance TAC 801.44(j) and TAC 681.41(r)

²³ https://catalog.ama-assn.org/Catalog/cpt/cpt_search_result.jsp?requestid=815277

²⁴ Such as co-parenting case management or co-parenting facilitation