

Congressional Recap

by Paul J. Seifert, JD

SEVERAL RECENT ACTIONS IN CONGRESS impact people affected by AD/HD and related disorders. In each issue of *Attention*, we report on pending legislation, appropriations, court decisions—anything happening on Capitol Hill or in state houses—with meaning for the lives of the individuals and families for whom CHADD advocates every day.

APPROPRIATIONS

National Resource Center on AD/HD

Since 2002, the NRC has provided information to millions of people in need of science-based information about the disorder. Funding for the NRC is provided by the Centers for Disease Control and Prevention. In recent years Congress has approved \$1.2 million for the NRC and AD/HD-related research at CDC. Because of the tremendous need for information, CHADD works each year to make sure Congress understands the important role of the NRC.

Each year, the House and Senate Appropriations Committees must agree to fund programs at the CDC and NRC. For fiscal year 2008, the House approved level funding for the NRC and the Senate Appropriations Subcommittee on Labor-Health & Human Services approved a \$100,000 increase for the NRC. However, final approval of the FY 2008 appropriations bills remains unclear because of differences between the White House and Congress over spending levels.

EDUCATION

No Child Left Behind Reauthorization

This year marks five years since NCLB was first passed with the goal of boosting the nation's education achievement rate. Some controversy has accompanied the bill's implementation as various education stakeholders have found fault with the requirements in NCLB. Congress is in the process of renewing the law and examining what, if any changes to make. The views about what to do with the law vary widely. Some urge Congress repeal the law outright, citing the burdens on schools and teachers and the focus on test-based measurements. Others seek more moderate changes, and yet others see the law as fundamentally sound with only slight tweaks needing to be made.

The Department of Education reported that NCLB has resulted in improved education achievements in reading and math and has narrowed the achievement gap between white and minority students. You can go to <http://www.nationsreportcard.gov> and view the details of the Department of Education's latest report.

The House Education and Labor Committee has held hearings to hear from various stakeholders on their draft NCLB reauthorization bill. The disability community is generally supportive of the law because it requires schools to include almost all students with disabilities in the educational achievement reports by schools, meaning that children with disabilities can't be ignored. CHADD is especially pleased that the House version of NCLB contains provisions that help schools implement Positive Behavioral Supports.

Positive Behavioral Supports

Legislation has been introduced in both the House and Senate that would promote the use of Positive Behavioral Supports. H.R. 3407 (introduced by Rep. Phil Hare, D-IL) and S. 2111 (introduced by Sen. Barack Obama and Sen. Dick Durbin of Illinois) amend the federal education law, the Elementary and Secondary Education Act of 1965, to allow state and local educational agencies and schools to make greater use of early intervening services—particularly PBS—through grants and other incentives. The bill also creates the Office of Specialized Instructional Support Services within the Department of Education. The new office would administer, coordinate, and carry out programs and activities designed to provide specialized instructional support services in schools.

PBS establishes a schoolwide system of common expectations for student behavior that is understood by students and teachers alike. It includes three levels of interventions that are tailored to students' behavioral needs: universal strategies used with all students in the school; secondary interventions that target extra support to students at risk; and intensive, tertiary interventions that assist students experiencing the most significant mental health and behavioral issues.

HEALTHCARE

Mental Health Parity

On September 18, the Senate unanimously approved the Mental Health Parity Act of 2007. This critical legislation



will ensure that Americans with employer-sponsored health insurance and their families receive mental healthcare coverage at the same level as coverage for general health problems. Currently, 113 million Americans face higher payments and stricter coverage limits for some illnesses than others because their health plan discriminates against certain illnesses.

Parity faces a longer path in the House of Representatives. The House version, H.R. 1424, is also advancing. The House Education and Labor Committee approved the bill by a vote of 33-9 and the House Ways and Means Committee approved it by a vote of 27-13. The House Commerce Committee must also approve H.R. 1424 before the full House can consider the bill.

Once the House and Senate pass their bills, any differences must be worked out and approved before it is sent to the president.

State Children's Health Insurance Program

SCHIP covers about 6 million children who are low-income but not poor enough to qualify for Medicaid. It is jointly financed by

the federal and state governments and administered by the states. Congress must reauthorize SCHIP this year or the states lose the federal matching funds. A large bipartisan majority in Congress have made expanding the program a priority, allowing about 5.8 million additional people—most of them children—to enroll in SCHIP and Medicaid. Of those, 3.8 million would be people who were previously uninsured.

The House approved SCHIP reauthorization by a large bipartisan vote of 265-159, just 19 votes short of the number needed to override President Bush's expected veto. The Senate approved the bill 67 to 29, a margin wide enough to override a veto.

On October 18, the House vote to override the president's veto fell 13 votes short of the necessary 286 votes; the final vote was 273 to 156. House leaders vowed to bring the bill back up soon. CHADD supported the current bill, which required SCHIP plans to cover mental health services on par with physical health services, and hopes that Congressional leaders and the White House will put partisan politics aside and put children first.

PUNCHSTOCK

President Bush Signs FDA Reform Bill

Congress approved and President Bush signed sweeping legislation to improve oversight and monitoring by the nation's drug safety agency, the Food and Drug Administration. Key provisions include:

- Increase use of user fees charged by the FDA to drug companies to enhance the human drug review program, premarket review of human drug applications, and modernize and transform the post-market safety system. The new law establishes a new program to assess, collect, and use fees for the voluntary review of prescription drug direct-to-consumer (DTC) television advertisements.
- The new law also strengthens FDA's post-market drug safety authority, specifically providing FDA with the authority to require labeling changes and impose civil monetary penalties for certain violations of the Federal Food, Drug, and Cosmetic Act with respect to drugs. It also provides FDA with a process to pre-review television pharmaceutical advertisements.
- The new law provides FDA with enhanced tools to ensure post-market drug safety through a Risk Evaluation and Mitigation Strategy process. The FDA will have the authority to require a REMS for drugs and biologics, if it is determined necessary to ensure that the benefits of a drug or biologic outweigh its risks. Title IX also directs the HHS Secretary to establish an active post-market drug surveillance infrastructure.

RIGHTS

ADA Restoration Legislation Introduced

A bipartisan group of senators and representatives has introduced legislation to restore key protections of the Americans with Disabilities Act eroded over the years by the courts. In the Senate, Sen. Tom Harkin (D-IA) and Sen. Arlen Specter (R-PA) introduced S. 1881 and in the House, Rep. Steny Hoyer (D-MD) and Rep. James Sensenbrenner (R-WI) introduced H.R. 3195. In 1990, when President George H.W. Bush signed the ADA, Congress intended to protect anyone who is treated less favorably because of a current, past, or perceived disability. Congress never intended for the courts to use the definition of "disability" as a means of excluding individuals with serious health conditions like epilepsy, diabetes, cancer, HIV, muscular dystrophy, mental health conditions, and multiple sclerosis.

However, the Supreme Court and the lower courts have dramatically changed the meaning of disability under the ADA. The Supreme Court has shifted the focus away from an employer's alleged misconduct and onto whether an individual can first meet a "demanding standard for qualifying as disabled." This creates situation which allows employers to say a person is "too disabled" to do the job but not "disabled enough" to be protected by the law. The case is thrown out of court without the individual ever having the chance to prove they can do the job. The ADA Restoration Act would reverse many of the rulings that have eliminated protections Congress intended to provide in 1990. **A**

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