

Regulatory Analysis Form		This space for use by RRC RECEIVED 1999 NOV -1 PM 12: 15 INDEPENDENT REGULATORY REVIEW COMMISSION
(1) Agency Pennsylvania Department of Health	RRC Number: Bush #2075	
(2) I.D. Number (Governor's Office Use) 10-154		
(3) Short Title Physical Plant Regulations for Inpatient Non-Hospital Activities (Residential Treatment and Rehabilitation) and Non-Residential Treatment Activities		
(4) PA Code Cite 28 PA Code §§701.1 and 705.01 - 705.29 The following sections will be rescinded: 28 Pa. Code §§709.27, 709.74, 711.45, 711.57, 711.67, 711.77, 711.88, 713.27	(5) Agency Contacts & Telephone Numbers Primary Contact: John C. Hair Director Bureau of Community Program Licensure & Certification Secondary Contact: Cheryl D. Williams Director Division of Drug & Alcohol Program Licensure	
(6) Type of Rulemaking (Check One) <input checked="" type="checkbox"/> Proposed Rulemaking <input type="checkbox"/> Final Order Adopting Regulation <input type="checkbox"/> Final Order, Proposed Rulemaking Omitted	(7) Is a 120-Day Emergency Certification Attached? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes: By the Attorney General <input type="checkbox"/> Yes: By the Governor	

Regulatory Analysis Form

(8) Briefly explain the regulation in clear and non-technical language.

The Department of Health proposes to amend out-dated physical plant regulations for licensure of residential and non-residential drug and alcohol treatment and rehabilitation facilities and services. The purpose of the amendment is to provide minimal protection to ensure the health and safety of clients being served in drug and alcohol programs and employees working in those facilities.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

Articles IX and X of the Public Welfare Code (62 P.S. §§901-1059) as transferred to the Department of Health by Reorganization Plan Number 2 of 1977, (71 P.S. §751-25) and the Pennsylvania Drug and Alcohol Abuse Control Act, 1972-63, as amended (71 P.S. §§1690.01-1690.16).

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

Yes. Public Welfare Code, 62 P.S. §§911 and 921, as transferred to the Department of Health by Reorganization Plan Number 2 of 1977, (71 P.S. §751-25).

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

Existing physical plant regulations as applied to drug and alcohol treatment and rehabilitation facilities and services are not consistent with current health, safety, fire and panic code requirements. They are insufficient to provide for even minimal health and safety protections for clients and employees. These regulations revise and amend current physical plant standards in accordance with direct observations and reports of licensing surveyors of the currently licensed facilities. Current physical plant regulations are not adequate to sustain citations against facilities even when conditions are unsafe and warrant action.

(12) State the public health, safety, environmental or general welfare risks associated with non-regulation.

Clients and staff will be protected by these regulations by reducing risks of health hazards such as overcrowding, infectious diseases, rodents and other pest hazards to humans, unclean kitchens and food storage areas and unsafe child care areas.

Regulatory Analysis Form

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

All clients, staff and children who receive treatment or child care or who are employed at licensed drug and alcohol treatment and rehabilitation facilities will benefit from the health and safety requirements of these regulations. Application of these regulations will result in the prevention of accidents, injuries and sickness of those working or receiving services in the regulated facilities. At minimum, 60,000 clients, children and employees will benefit from these regulations.

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

Currently, there are 895 licensed drug and alcohol treatment and rehabilitation facilities in Pennsylvania. Not all of these facilities will be affected. Some facilities already meet or exceed the proposed regulation requirements. Other facilities will be affected to one degree or another, depending upon the extent they currently operate in compliance with the proposed regulations.

The initial costs of compliance will vary from facility to facility depending upon the needs of each facility to comply with the regulations. Examples of necessary improvements to bring a facility into compliance may range from simply installing smoke alarms, to installing emergency exits, overhead exit signs and making other physical plant alterations, additions or modifications.

It is noted, however, that one possible area of major construction or remodeling is exempted. Certain current provisions regarding sleeping accommodations will be permitted to continue without modification.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

All licensed inpatient non-hospital facilities, all licensed non-residential facilities and all applicants for licensure of those types of facilities will be required to comply with the regulations. Currently the number of such facilities is 895.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

A draft of the proposed regulations was sent to licensed providers, trade organization, county administrators for initial comment prior to preparation of these proposed regulations. A draft was also sent to the Department of Labor and Industry, Building Section, which has oversight of fire and panic regulations for that department, for review and comment. Six comments were received and these comments were incorporated into these proposed amendments.

Regulatory Analysis Form

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

Initial costs to the regulated community will vary depending upon the level of compliance under which each facility currently operates. Once in compliance, annual maintenance costs should be minimal. Savings will be experienced by reduced accidents and illnesses which in turn will reduce required costs of patient care and possible negligence and workers' compensation litigation costs relating to injuries sustained by clients and employees.

There are no additional perceived legal, accounting or consulting procedures which may be required by the facilities as a result of the implementation of these regulations.

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

It is anticipated that there will be no costs or savings to local governments resulting from the implementation of these regulations.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

The implementation of these regulations will not impose any additional legal, accounting or consulting procedures on the state government. It is anticipated that minimal time and expense will be required to train licensing staff on the enforcement of these amended physical plant regulations. To the extent these proposed regulations prevent injury or illness, the costs of which would be borne by the state government, such costs will be reduced.

Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community	*					
Local Government	None					
State Government	No Impact					
Total Savings						
COSTS:						
Regulated Community	*					
Local Government	None					
State Government	None					
Total Costs						
REVENUE LOSSES:						
Regulated Community	*					
Local Government	None					
State Government	None					
Total Revenue Losses						

(20a) Explain how the cost estimates listed above were derived.

As discussed previously, there will be no fiscal impact on local governments. According to the Department of Health, Bureau of Financial Operations and Management Services, Division of Budget Preparation and Analysis, the regulation will have no fiscal impact on the Department.

*The regulation may have a cost impact on regulated entities. Numerous drug and alcohol treatment and rehabilitation facilities may already comply with the regulation. For those which do not, additional costs may result from infrastructure improvements necessitated by the regulation. It is difficult to quantify specific costs associated with these improvements. Such improvements might include installation of smoke alarms and emergency exit signs. Other improvements could result in expenditure of capital funds for various building and structural additions and renovations. However, many facilities will not be required to expend funds for major construction or renovation for sleeping accommodations since the proposed regulations allow for "grandfathering" in of certain existing conditions.

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(20b) Provide the past three year expenditure history for programs affected by the regulation.

Not Applicable

Program	FY - 3	FY - 2	FY - 1	Current FY

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

Preventative measures imposed by these regulations are designed to prevent accident, injury and illness to clients receiving treatment and employees providing treatment. It is difficult to estimate the exact benefit and costs derived from implementation of these regulations. It is anticipated that benefits in terms of cost savings resulting from reduced health and safety incidents will outweigh costs incurred by not having the amended regulations in place.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

There are no non-regulatory alternatives.

Physical plant standards can only be implemented and enforced through regulation. Voluntary efforts would be unenforceable and would lack any type of consistent or uniform standard.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

There are no alternative regulatory schemes available because the Division of Drug and Alcohol Program Licensure staff are the only regulatory surveyors visiting drug and alcohol treatment facilities on an annual basis. State health safety inspectors are not required to inspect drug and alcohol treatment facilities and Department of Labor and Industry inspectors focus only on the building structure only during initial approval. Drug and alcohol licensure also requires occupancy and other issues to be addressed before a facility can be licensed. There are no known local physical plant inspection procedures that are in place which are available as a substitute for these regulations.

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(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

No. Federal regulations do not address physical plant and safety protections.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

The regulation will not put Pennsylvania at a competitive disadvantage. Treatment facilities are not regional in nature and do not cross state lines.

Nearby states already have more stringent regulations. Various portions of regulations from West Virginia and Delaware were used as models for these amendments.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No other state agencies will be affected. No existing or proposed regulations of the Department of Health will be affected except that, as mentioned, certain current Department of Health regulations will be rescinded in conjunction with the promulgation of these amended regulations.

(27) Will any public hearings or information meetings be scheduled? Please provide the dates, times, and locations, if available.

No public hearings or informational meetings are scheduled at this time. Prior to publication as proposed rulemaking, these regulations were sent to licensed providers, trade organizations, county administrators and the Department of Labor and Industry for comment. Approximately six (6) comments were received which were considered in the preparation of these proposed regulations. Depending upon the nature and volume of comments received on these proposed amendments, the Department will form an advisory committee or workgroup, conduct workshops or participate in other regulatory review activities with the regulated community as appropriate in preparing the final-form regulation.

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(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

The regulation will not change any reporting, record keeping or other paperwork for the regulated facilities. The Department will be required to modify its survey forms to address the amended regulations. Such modifications will be minimal. A draft of the modified form has not yet been prepared.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

Regulation Sections 28 Pa. Code §§705.11 and 705.29.

These sections have been developed to meet particular needs for facilities which admit children for services or for custodial care of children while their parents are at facilities receiving treatment.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

After publication as proposed regulations in the Pennsylvania Bulletin, there will be a thirty (30) day public comment period. They will become effective upon publication as final in the Pennsylvania Bulletin. Compliance with the regulations will be required within nine (9) months after they become effective. Implementation of the regulations by the Division of Drug and Alcohol Program Licensure will commence at that time.

(31) Provide the schedule for continual review of the regulation.

These regulations will be reviewed in accordance with the Department's current regulatory review schedule.

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<p>Copy below is hereby approved as to form and legality. Attorney General.</p> <p>BY <u><i>[Signature]</i></u> DEPUTY ATTORNEY GENERAL</p> <p>OCT 04 1999. DATE OF APPROVAL</p> <p><input type="checkbox"/> Check if applicable. Copy not approved. Objections attached.</p>	<p>Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:</p> <p>DEPARTMENT OF HEALTH (AGENCY)</p> <p>DOCUMENT/FISCAL NOTE NO. <u>10-154</u></p> <p>DATE OF ADOPTION _____</p> <p>BY: <u><i>[Signature]</i></u> Daniel F. Hoffmann</p> <p>TITLE: <u>Secretary of Health</u></p>	<p>Copy below is hereby approved as to form and legality. Executive or independent Agencies.</p> <p>BY <u><i>[Signature]</i></u></p> <p><u>August 31, 1999</u> DATE OF APPROVAL</p> <p>(Deputy General Counsel) (Chief Counsel, Independent Agency) (Strike inapplicable title)</p> <p><input type="checkbox"/> Check if applicable. No Attorney General approval or objection within 30 days after submission.</p>
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PROPOSED RULEMAKING

DEPARTMENT OF HEALTH

TITLE 28. HEALTH AND SAFETY

PART V. DRUG AND ALCOHOL FACILITIES AND SERVICES

[28 PA Code Chapters 701, 705, 709, 711 and 713]

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Notice is hereby given that the Department of Health (Department) proposes to amend physical plant standards for the licensure of residential and non-residential services under the powers and duties contained in Articles IX and X of the Public Welfare Code (62 P.S. §§901-922, 1001-1031 and 1051-1059) and the Pennsylvania Drug and Alcohol Abuse Control Act (P.L. 221, No. 63) (71 P.S. §§1690.101 et seq.).

The Department proposes to replace and revise physical plant standards by adopting 28 PA Code Chapter 705, amending section 701.1 and repealing sections 709.27, 709.74, 711.45, 711.57, 711.67, 711.77, 711.88, and 713.27, as set forth in Annex A hereto.

PURPOSE OF THE RULEMAKING

The purpose of these amendments is to establish current physical plant standards for the licensure of residential and non-residential services to protect the health and safety of clients being served in drug and alcohol programs within the Commonwealth and employees working in those facilities. These standards would reduce the risk of health hazards and problems such as overcrowding, infectious diseases, rodent and other pest hazards to humans, unclean kitchen and food storage areas, and unsafe child care areas.

The Department 's Division of Drug and Alcohol Program Licensure (Division) inspects drug and alcohol facilities and applies physical plant standards from 28 PA Code

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Chapters 709, 711 and 713. The Division inspects drug and alcohol facilities on at least an annual basis. There are no known local physical plant inspection procedures that are in place as a substitute for these standards.

Chapter 705 is being created to replace current physical plant regulations which are found throughout Part V. Existing physical plant regulations as applied to drug and alcohol treatment and rehabilitation facilities and services are not consistent with current health, safety, fire and panic code requirements. They are insufficient to provide minimal health and safety protection for clients and employees.

Currently, regulations relating to physical plants are located in eight separate subchapters, each dealing with a different type of facility. These regulations are, for the most part, identical. A more logical approach is to consolidate all physical plant regulations into one chapter where they can be easily referenced, and repeal the separate physical plant regulations located throughout.

A draft of these proposed regulations was sent to over 900 entities on the Division's general mailing list. This list includes all drug and alcohol treatment providers, various drug and alcohol related associations and various State departments including the Department of

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Public Welfare and the Department of Labor and Industry. Only six (6) comments were received. One was from a shelter provider. The Department no longer licenses shelters. The other comments were generally favorable.

REQUIREMENTS OF THE REGULATIONS

A. Residential facilities.

**Section 705.1. General requirements for inpatient non-hospital facilities
(residential treatment and rehabilitation).**

This section would establish general requirements for all inpatient non-hospital facilities (residential facilities). A definition of "residential facilities" is added to section 701.1 (relating to general definitions). This section would require that all residential facilities obtain a certificate of occupancy from the Pennsylvania Department of Labor and Industry or its local equivalent and would also require compliance with other applicable Federal, State and local laws. It would exempt existing residential facilities from provisions of the proposed regulations which are considered to be too burdensome to impose on facilities already in operation, because they could require very extensive capital expenditures or structural additions or changes.

Existing residential facilities would be exempt from certain requirements related to sleeping accommodations. Residential facilities which currently have "dormitory style"

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rooms for residents would not be required to construct walls and build extra doors to satisfy the requirement that no more than four residents sleep in one bedroom. Many residential facilities currently have as many as 20 residents sleeping in one large dormitory style room. For them to comply with the proposed section 705.5(c) (relating to sleeping accommodations) requirement that no more than four residents sleep in one bedroom, could possibly require large scale construction. In fact, compliance might not be feasible at all in some cases. The minimum square feet requirements of proposed section 705.5(b) would have to be maintained, however, which might require the reduction of the number of residents in these large rooms in some cases.

Existing facilities would also be exempt from proposed section 705.5(e) and (f). Some residential facilities have a floor plan whereby two bedrooms are situated one in front of the other such that passing through the front bedroom is the only way to reach the second bedroom. Likewise, the second bedroom can only access the front bedroom and does not have direct access to a hallway. These situations need to be exempt because to enforce requirements that a bedroom may not be used as a regular means of egress or that it have a direct access to a corridor or external exit, could require major construction at an existing residential facility or, if not feasible at all, would cause a second bedroom to go unused.

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Section 705.2. Building exterior and grounds.

This section would provide for the maintenance of the outside of the residential facility and the grounds around the premises. Compliance would promote safe and secure facilities. Residential facilities would be required to be kept hazard-free from such things as the accumulation of debris or snow or ice at locations where they would pose threats to clients and employees and their children. Minimal sanitation requirements would be imposed relating to the accumulation and removal of garbage and rubbish.

Section 705.3. Living rooms and lounges.

This section would provide for minimum comfort in living spaces outside the counseling rooms and bedrooms. Some residential facilities have no living space or provide living spaces that are cold, unpainted and furnished with only a few items of furniture, some of which are broken or worn to the point of being non-functional. This section would require a living space atmosphere in which clients can maintain their dignity while relaxing in their free time.

Section 705.4. Counseling areas and office space.

This section would replace and revise current standards in sections 709.27, 711.45, 711.57, 711.67, 711.77, 711.88 and 713.27, relating to office space, counseling areas,

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activity areas and interview areas. The current regulations only provide that facilities have counseling areas. Counseling areas are often cramped and uncomfortable. Also, in some residential facilities, the contents or occupants of counseling rooms can be seen from outside the area, and discussions can be heard from outside the rooms. These situations compromise client confidentiality, which is absolutely crucial to the provision of drug and alcohol abuse treatment services. These minimal provisions would prohibit such conditions and significantly improve the ability to maintain client confidentiality.

Section 705.5. Sleeping accommodations.

This section would provide for minimal adequate comfort, space and storage for clients to maintain their personal items, and provide for safe and comfortable sleeping arrangements at residential facilities. It would also provide for a certain amount of privacy, in that only four clients would be permitted in one bedroom. It would also prohibit bedrooms from being used as hallways to other rooms. Sleeping accommodations are woefully poor in many residential facilities. Often clients feel dehumanized while residing in open, crowded, uncomfortable quarters.

Section 705.6. Bathrooms.

This section would vastly upgrade the health and safety requirements for bathrooms

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and lavatories within residential facilities. The only existing requirement is that residential facilities are required to have provisions for lavatories. There are no standards or guidelines regarding sanitation, ventilation or even whether hot and cold water is required. As a result, the conditions of bathrooms and lavatories in some residential facilities are unsanitary and pose significant threats to the health and safety of residents. This section would impose minimal standards for the benefit of both clients and employees of the regulated facilities.

Section 705.7. Kitchens.

This section would provide for the maintenance of safe and sanitary food preparation, storage and serving areas. The current regulation, sections 709.27, 711.45, 711.57, 711.67, 711.77 and 711.88, only require the provision of food service areas. They impose no requirements relative to proper food handling, preparation and storage. This section would raise standards to a minimal level to improve and protect the health and well-being of persons preparing and consuming food at residential facilities.

Section 705.8. Heating and cooling.

This section would assure minimum temperature standards in residential facilities. Many residential facilities are in disrepair, and lack adequate heating, cooling or ventilation controls. During various seasons throughout the year the temperatures in these facilities may

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be far outside the temperature range proposed in this section.

Section 705.9. General safety and emergency procedures.

This section would set forth general provisions for basic safety of clients and employees, and for emergency procedures. It would require smoking areas to be designated. It would require that pets be cared for in a safe and sanitary manner. It also would require that each residential facility have procedures in place in the event of emergencies and disasters. Finally, it would require that the facility provide notice to the Department within 48 hours of any incident which would disrupt services.

Section 705.10. Fire safety.

This regulation would provide the necessary detail and guidance for fire safety. Current sections 709.27, 711.45, 711.57, 711.67, 711.77, 711.88 and 713.27, only require that a residential facility have provisions for fire escapes, emergency exits, fire extinguishers and fire drills. No other guidance is provided. These missing details leave facilities unsure as to how to comply; thus, often this results in no compliance at all. The lack of detail also leaves the Department with no standards to uniformly enforce, and permits the continuation of unsafe and hazardous conditions. This section would specify minimum requirements residential facilities need to meet regarding these important safety features, and it would

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enable uniformity in compliance and enforcement across the Commonwealth.

Section 705.11. Child care.

This section would address subject matter not addressed in the current regulations. It would require minimal safety standards relating to child care, some or all of which have been found to be lacking at various residential facilities throughout the Commonwealth. Based on conditions of various facilities throughout the Commonwealth, it was determined that minimal standards were required for residential facilities which admit children for services or custodial care while parents are receiving services. One example of a current problem is that in several facilities children can gain access to windows which lack any type of protection to prevent accidental falls. Currently, facilities are not required to provide even basic, minimal safety protection for children. The potential risks could be fatal.

B. Non-residential facilities.

Sections 705.21 - 705.29. Physical plant standards for non-residential facilities.

These regulations would parallel the physical plant standard regulations for residential facilities. The differences are that these regulations would impose no provisions for sleeping accommodations since no overnight admissions occur in non-residential (outpatient) facilities. A definition of "non-residential facilities" is added to section

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701.1(relating to general definitions). Also, there would be no provisions for living rooms since again, clients do not stay in these facilities. Clients are only present during the time they are receiving services on an outpatient basis. The provisions regarding bathrooms would be slightly different, since showers and bathtubs are not required for out-patient services.

AFFECTED PERSONS

All staff, clients and children who are at the regulated facilities would be affected. More than 60,000 individuals would benefit from the added protections provided by these amended regulations.

FISCAL IMPACT

The amendments to the physical plant requirements would have some initial fiscal impact which would be borne by the drug and alcohol facilities. Once in compliance, however, annual maintenance costs would be minimal. There would be no measurable costs imposed upon local or state government. Existing facilities would be exempted from certain requirements which might impose costs too great for them to absorb and continue to function effectively.

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PAPERWORK REQUIREMENTS

There would be no measurable increase in paperwork since a paperwork system for licensing drug and alcohol facilities is already in place. The current licensure forms would require slight modification to account for the regulatory changes.

EFFECTIVE DATE

The regulations will become effective immediately upon publication as final rulemaking.

SUNSET DATE

No sunset date is necessary. The Department will monitor the appropriateness of these regulations on a continuing basis.

STATUTORY AUTHORITY

Articles IX and X of the Public Welfare Code (62 P.S. §§901-1059) (relating to the licensure of facilities) as transferred to the Department of Health by Reorganization Plan Number 2 of 1977, (71 P.S. §751-25) (relating to the transfer of drug and alcohol facility licensure authority from the Department of Public Welfare to the Governor's Council on Drug and Alcohol Abuse), and Reorganization Plan under 4 of 1981 (71 P.S. §751-31)

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(relating to the transfer of the powers and duties of the Governors Council on Drug and Alcohol Abuse to the Department of Health) and the Pennsylvania Drug and Alcohol Abuse Control Act, 1972-63, as amended (71 P.S. §§1690.01 et seq.) (relating to the control, prevention, treatment and rehabilitation aspects of drug and alcohol abuse problems).

REGULATORY REVIEW

Under Section 5(a) of the Regulatory Review Act, 71 P.S. §745.1 et seq., the Department submitted a copy of the proposed regulations on November 1, 1999 to the Independent Regulatory Review Commission and to the Chairpersons of the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare. In addition to submitting the proposed regulations, the Department has provided the Commission and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

If the Commission has any objections to any portion of the proposed regulations, it will notify the Department by January 14, 2000 [ten days after expiration of the review period granted to the Standing Committees]. Such notification shall specify the regulatory review criteria which have not been met by that portion. The Act specifies detailed procedures for review, prior to final publication of the regulation, by the Department, the

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General Assembly and the Governor, of objections raised.

CONTACT PERSON

Interested persons are invited to submit all comments, suggestions or objections regarding the proposal to John C. Hair, Director, Bureau of Community Program Licensure and Certification, Pennsylvania Department of Health, 132 Kline Plaza, Suite A, Harrisburg, Pennsylvania 17104, (717) 783-8665, within 30 days after publication of this notice in the Pennsylvania Bulletin. Persons with a disability who wish to submit comments, suggestions, or objections regarding the proposed regulations may do so by using V/TT (717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800-654-5984 [TT]). Persons who require an alternative format of this document may contact Mr. Hair so that necessary arrangements may be made.

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- (4) Ensure that storage areas for foods are cleanable and free of food particles, dust and dirt.
- (5) Properly refrigerate or store in closed or sealed containers which are labeled by content and date of preparation all prepared food items.
- (6) Store all food items off the floor.
- (7) Not permit pets in the kitchen and dining areas.
- (8) Prohibit smoking in kitchen areas.

§705.26. Heating and cooling.

The non-residential facility shall:

- (1) Have a heating and cooling ventilation system that is adequate to maintain an indoor temperature of at least 65 degrees Fahrenheit in the winter and no more than 90 degrees Fahrenheit in the summer.
- (2) Not permit in the non-residential facility heaters that are not permanently mounted or installed.

§705.27. General safety and emergency procedures.

The non-residential facility shall:

- (1) Be free of rodent and insect infestation.
- (2) Require that any pets which are housed in a non-residential facility be cared for in a safe and sanitary manner.
- (3) Limit smoking to designated smoking areas.
- (4) Provide written procedures for staff and clients to follow in case of an internal or external emergency or disaster. These procedures shall be developed with the assistance of qualified fire and safety personnel. Procedures shall also include provisions for the evacuation of buildings or for the transfer of clients and staff to a safe location within the building, and for assignments of staff during emergencies.

- (5) Notify the Division of Drug and Alcohol Program Licensure within 48 hours of a fire, other disaster, or situation which affects the continuation of services.

§705.28. Fire safety.

(a) Exits.

(1) The non-residential facility shall:

- (i) Ensure that stairways, hallways and exits from rooms and from the non-residential facility are unobstructed.
- (ii) Maintain at least two independent and accessible exits on every floor, each located remote enough from the other to reasonably ensure that both will not be blocked in an emergency situation.
- (iii) Clearly indicate exits by the use of signs.
- (iv) Provide guards to prevent falls from the open sides of stairs, ramps, balconies and stair landings higher than 30 inches above the floor or grade below.
- (v) Provide a hand railing for each stairway.
- (vi) Light interior exits and stairs at all times.

(2) Portable ladders and rope escapes are not considered exits, but may be used in addition to standard exits.

(b) Smoke detectors and fire alarms. The non-residential facility shall:

- (1) Maintain a minimum of one automatic smoke detector on each floor, including the basement and attic.
- (2) Place the smoke detection device in a common area or hallway. Detection devices shall be interconnected.
- (3) Maintain automatic smoke detectors and fire alarms of a type approved by the Department of Labor and Industry or by the Underwriters Laboratories.

(c) Fire extinguishers. The non-residential facility shall:

- (1) Maintain a portable fire extinguisher with a minimum of an ABC rating which shall be located on each floor. If there is more than 2,000 square feet of floor space on a floor, there shall be an additional fire extinguisher for each 2,000 square feet or fraction thereof.
 - (2) Maintain at least one portable fire extinguisher with a minimum of an ABC rating in each kitchen. This fire extinguisher meets the requirements of one portable fire extinguisher for a 2,000 square foot area. The extinguisher shall be located near an exit and away from the cooking area.
 - (3) Ensure fire extinguishers are inspected and approved annually by the local fire department or fire extinguisher company. The date of the inspection shall be indicated on the extinguisher or inspection tag.
 - (4) Instruct all staff in the use of the fire extinguisher upon staff employment. This instruction shall be documented by the facility.
- (d) Fire drills. The non-residential facility shall:
- (1) Conduct a fire drill every 60 days. The non-residential facility shall keep a written record of the date, hypothetical location of fire, amount of time it took for evacuation, the number of staff and residents participating in the fire drill and comments regarding special incidents.
 - (2) Conduct fire drills at different times of the day and night. Hypothetical locations of the fire shall be different for each drill.
 - (3) Ensure that all personnel on all shifts are trained to perform assigned tasks during emergencies.

§705.29. Child care.

When a non-residential facility admits children for services or for custodial care, the following requirements apply:

- (1) Building exterior and grounds. The non-residential facility shall:
 - (i) Fence off or have natural barriers to protect children for all areas determined to be unsafe including steep grades, open pits, swimming pools, high voltage boosters, or roads.
 - (ii) Provide access to outdoor recreational space and suitable recreational

equipment.

(2) Interior space. The non-residential facility shall:

- (i) Provide an interior play area which meets the developmental and recreational needs of the children in care.
- (ii) Maintain security screens for all windows.
- (iii) Maintain protective caps over each electrical outlet within reach of small children.
- (iv) Secure all storage areas where any potentially dangerous substances are kept with safety latches or locks.

* * *

Chapter 709. STANDARDS FOR LICENSURE OF FREESTANDING TREATMENT FACILITIES.

* * *

§709.27. [Physical plant.] (Reserved).

[The project shall have provisions for the following requirements:

- (1) Counseling areas.
- (2) Office space.
- (3) Lavatories.
- (4) Fire escapes/emergency exits.
- (5) Fire extinguishers.
- (6) Fire drills.
- (7) General maintenance.
- (8) Food service areas, if applicable.
- (9) Disaster plan.
- (10) Certificate of Occupancy from the Department of Labor and Industry or its equivalent.
- (11) Compliance with applicable local ordinances and regulations.]

* * *

§709.74. [Physical plant.] (Reserved).

[The transitional living facilities need not comply with § 709.27 (relating to physical plants), but

shall make provisions for activity areas.]

* * *

Chapter 711. STANDARDS FOR CERTIFICATION OF TREATMENT ACTIVITIES WHICH ARE A PART OF A HEALTH CARE FACILITY

* * *

§711.45. [Physical plant.] (Reserved).

[When the project is not physically located with a health care facility, it shall be site visited annually for the following requirements:

- (1) Interview areas.
- (2) Office space.
- (3) Lavatories.
- (4) Fire escapes/emergency exits.
- (5) Fire extinguishers.
- (6) General maintenance.
- (7) Certificate of Occupancy from the Department of Labor and Industry or its equivalent.
- (8) Compliance with applicable local ordinances and regulations.]

* * *

§ 711.57. [Physical plant.] (Reserved).

[When the project is not physically located within a health care facility, it shall be site visited annually for the following requirements:

- (1) Counseling areas.
- (2) Office space.
- (3) Lavatories.
- (4) Fire escapes/emergency exits.
- (5) Fire extinguishers.
- (6) General maintenance.
- (7) Food service areas, if applicable.
- (8) Certificate of Occupancy from the Department of Labor and Industry or its equivalent.
- (9) Compliance with applicable local ordinances and regulations.]

* * *

ANNEX A

TITLE 28. HEALTH AND SAFETY

* * *

PART V. DRUG AND ALCOHOL FACILITIES AND SERVICES

* * *

Chapter 701. GENERAL PROVISIONS

Subchapter A. DEFINITIONS

§701.1 General definitions.

* * *

Non-residential facility - A facility that does not provide sleeping accommodations and provides one or more of the following activities: outpatient, partial hospitalization, intake, evaluation or referral activities.

* * *

Residential facility - An inpatient, non-hospital facility or inpatient free-standing psychiatric hospital that provides sleeping accommodations and provides one or more of the following activities: residential treatment and rehabilitation services, transitional living services or short-term detoxification services, 24 hours a day.

* * *

Chapter 705. PHYSICAL PLANT STANDARDS FOR
RESIDENTIAL SERVICES

§705.1. General requirements for inpatient non-hospital facilities (residential treatment and rehabilitation).

- (a) The residential facility shall comply with all applicable Federal, State and local laws and ordinances.
- (b) The residential facility shall have a certificate of occupancy from the Department

of Labor and Industry or its local equivalent.

- (c) A residential facility licensed prior to the effective date of these regulations is exempt from section 705.5(c),(e) and (f)(relating to sleeping accommodations).

§705.2. Building exterior and grounds.

The residential facility shall:

- (1) Maintain all structures, fences and playground equipment, where applicable, on the grounds of the facility so as to be free from any danger to health and safety.
- (2) Keep the grounds of the facility in good condition and shall ensure that the grounds are free from any hazard to health and safety.
- (3) Keep exterior exits, stairs, and walkways lighted at night.
- (4) Store securely all garbage and rubbish in non-combustible, covered containers and remove it on a regular basis, at least once every week.

§705.3. Living rooms and lounges.

The residential facility shall:

- (1) Contain at least one appropriately furnished living room or lounge which creates a relaxed and comfortable atmosphere for the free and informal use of clients and their families.
- (2) Maintain furnishings in a state of good repair.

§705.4. Counseling areas and office space.

The residential facility shall:

- (1) Maintain adequate space for both individual and group counseling sessions.
- (2) Maintain counseling areas with comfortable furnishings which are appropriate for the intended purpose and which are in good repair.

- (3) Ensure sufficient privacy so that counseling sessions cannot be seen or heard outside the counseling room. Counseling room walls shall extend from the floor to the ceiling.
- (4) Provide office space, including clerical space, separate and apart from counseling areas and which shall not present a distraction or interference to counseling.

§705.5. Sleeping accommodations.

- (a) In bedrooms, a residential facility shall furnish the following for each resident:
 - (1) A bed frame of solid construction and sized appropriately to the needs of the resident.
 - (2) A clean, comfortable mattress and foundation in good repair.
 - (3) A clean, comfortable pillow.
 - (4) Bed covering appropriate for climate.
 - (5) A chest of drawers.
 - (6) Closet or wardrobe space with clothing racks and shelves accessible to the resident.
- (b) For each resident sharing a bedroom, the residential facility shall provide a minimum of 60 square feet of bedroom space per bed, including space occupied by furniture. For each resident occupying a single bedroom, the facility shall have a minimum of 80 square feet of bedroom space, including space occupied by furniture.
- (c) No more than four residents shall sleep in one bedroom.
- (d) When a residential facility uses bunk beds, each mattress shall be positioned to allow each occupant to sit up in bed.
- (e) Each bedroom shall have direct access to a corridor or external exit.
- (f) A bedroom may not be used as a regular means of egress.
- (g) Sole entrances to stairways or basements may not be located in a resident's

bedroom.

- (h) Each bedroom shall be ventilated by operable windows or have mechanical ventilation.
- (i) A residential facility shall prohibit smoking and use of candles in bedrooms.
- (j) A residential facility may locate bedrooms in the basement provided the following criteria are met:
 - (1) The bedroom shall have appropriate wall, floor and ceiling coverings such as tile, linoleum, paneling, or dry wall.
 - (2) The bedroom shall have a protective fire wall between the residents and any furnace.
 - (3) There shall be a minimum of two independent and accessible exits from the basement, each located reasonably remote from the other in such a manner to reduce the possibility that both will be blocked in an emergency situation.

§705.6. Bathrooms.

The residential facility shall:

- (1) Provide a bathroom containing one sink, one flush toilet and one bathtub or shower for every eight residents.
- (2) Provide a wall mirror, a soap dispenser, and either individual paper towels or a mechanical dryer in each bathroom.
- (3) Provide an adequate supply of hot and cold running water to meet the needs of the residents in each bathroom.
- (4) Provide privacy in toilets by doors, and in showers and bathtubs by partitions, doors or curtains.
- (5) Ventilate toilet and wash rooms by exhaust fan or window.
- (6) Provide toilet paper at each toilet at all times.
- (7) Maintain each faucet and toilet in a functional, clean and sanitary manner

at all times.

§705.7. Kitchens.

The residential facility shall:

- (1) Have at least one kitchen with a refrigerator, a sink, a stove, an oven, and adequate cabinet space for storage needs.
- (2) Clean and disinfect all food preparation areas and appliances following each prepared meal.
- (3) Thoroughly clean all eating, drinking and cooking utensils after each usage and store the utensils in a clean enclosed area.
- (4) Ensure that storage areas for foods are cleanable and free of food particles, dust and dirt.
- (5) Properly refrigerate or store in closed or sealed containers which are labeled by content and date of preparation, all prepared food items.
- (6) Store all food items off the floor.
- (7) Not permit pets in the kitchen and dining areas.
- (8) Prohibit smoking in kitchen areas.

§705.8. Heating and cooling.

The residential facility shall:

- (1) Have a heating and cooling ventilation system that is adequate to maintain an indoor temperature of at least 65 degrees Fahrenheit in the winter and no more than 90 degrees Fahrenheit in the summer.
- (2) Not permit in the facility heaters that are not permanently mounted or installed.

§705.9. General safety and emergency procedures.

The residential facility shall:

- (1) Be free of rodent and insect infestation.
- (2) Require that any pets housed in the residential facility are cared for in a safe and sanitary manner.
- (3) Limit smoking to designated smoking areas.
- (4) Provide written procedures for staff and residents to follow in case of an internal or external emergency or disaster. These procedures shall be developed with the assistance of qualified fire and safety personnel. Procedures shall also include provisions for the transfer of residents and staff to a safe location within the residential facility for the evacuation of residents and staff when necessary, and for assignments of staff during emergencies.
- (5) Notify the Department within 48 hours of a fire, other disaster, or situation which affects the continuation of services.

§705.10. Fire safety.

(a) Exits.

- (1) The residential facility shall:
 - (i) Ensure that stairways, hallways and exits from rooms and from the residential facility are unobstructed.
 - (ii) Maintain at least two independent and accessible exits on every floor, each located remote enough from the other to reasonably ensure that both will not be blocked in an emergency situation.
 - (iii) Provide guards to prevent falls from the open sides of stairs, ramps, balconies, and stair landings higher than 30 inches above the floor or grade below.
 - (iv) Provide a hand railing on each stairway.
 - (v) Clearly indicate exits by the use of signs.
 - (vi) Light interior exits and stairs at all times.

(2) Portable ladders and rope escapes are not considered exits, but may be used in addition to standard exits.

(b) Smoke detectors and fire alarms. The residential facility shall:

(1) Maintain a minimum of one automatic smoke detector on each floor, including the basement and attic.

(2) On floors with resident bedrooms, maintain a smoke detection device which shall be located outside the bedrooms. On floors with no resident bedrooms, the smoke detection device shall be located in a common area or hallway. All detection devices shall be interconnected.

(3) Maintain a manual fire alarm system that is audible throughout the facility in a residential facility where four or more residents reside.

(4) Maintain automatic smoke detectors and fire alarms of a type approved by the Department of Labor and Industry or by the Underwriters Laboratories.

(c) Fire extinguisher. The residential facility shall:

(1) Maintain a portable fire extinguisher with a minimum of an ABC rating, which shall be located on each floor. If there is more than 2,000 square feet of floor space on a floor, the residential facility shall maintain an additional fire extinguisher for each 2,000 square feet or fraction thereof.

(2) Maintain at least one portable fire extinguisher with a minimum of an ABC rating in each kitchen. This fire extinguisher meets the requirement of paragraph (1), for at least one portable fire extinguisher for a 2,000 square foot area. A residential facility shall place the fire extinguisher in the kitchen area near an exit and away from the cooking area.

(3) Ensure fire extinguishers are inspected and approved annually by the local fire department or fire extinguisher company. The date of the inspection shall be indicated on the extinguisher or inspection tag.

(4) Instruct all staff and residents in the use of the fire extinguishers upon resident admission or staff employment. This instruction shall be documented by the residential facility.

(d) Fire drills. The residential facility shall:

(1) Conduct a fire drill every 60 days. The residential facility shall keep a

written record of the date, hypothetical location of the fire, amount of time it took for evacuation, the number of staff and residents participating in the fire drill, and comments regarding special incidents.

- (2) Conduct fire drills at different times of the day and night. Hypothetical locations of the fire shall be different for each drill.
- (3) Ensure that all personnel on all shifts are trained to perform assigned tasks during emergencies.

§705.11. Child care.

When a residential facility admits children for services or for custodial care, the following requirements apply:

- (1) *Building exterior and grounds.* The residential facility shall:
 - (i) Fence off or have natural barriers to protect children for all areas determined to be unsafe including steep grades, cliffs, open pits, swimming pools, high voltage boosters, or roads.
 - (ii) Provide access to outdoor recreational space and suitable recreational equipment.
- (2) *Interior space.* The residential facility shall:
 - (i) Provide an interior play area which meets the developmental and recreational needs of the children in care.
 - (ii) Maintain security screens for all windows.
 - (iii) Maintain protective caps over each electrical outlet within reach of small children.
 - (iv) Secure all storage areas where potentially dangerous substances are kept with safety latches or locks.

PHYSICAL PLANT STANDARDS FOR
NON-RESIDENTIAL SERVICES

§705.21. General requirements for non-residential treatment facilities.

The non-residential facility shall:

- (1) Have a certificate of occupancy from the Department of Labor and Industry or its local equivalent.
- (2) Comply with all other applicable Federal, State and local laws and ordinances.

§705.22. Building exterior and grounds.

The non-residential facility shall:

- (1) Maintain all structures, fences and playground equipment, where applicable, on the grounds of the facility so as to be free from any danger to health and safety.
- (2) Keep the grounds of the facility in good condition and shall ensure that the grounds are free from any hazard to health and safety.
- (3) Keep exterior exits, stairs, and walkways lighted at night if in use.
- (4) Store securely all garbage and rubbish in non-combustible, covered containers, and remove it on a regular basis, at least once every week.

§705.23. Counseling or activity areas and office space.

The non-residential facility shall:

- (1) Maintain adequate space for both individual and group counseling sessions.
- (2) Maintain counseling areas with comfortable furnishings which are

appropriate for the intended purpose and which are in good repair.

- (3) Ensure sufficient privacy so that counseling sessions cannot be seen or heard outside the counseling room. Counseling room walls shall extend from the floor to the ceiling.
- (4) Provide office space, including clerical space, separate and apart from counseling areas and which shall not present a distraction or interference to counseling.

§705.24. Bathrooms.

The non-residential facility shall:

- (1) Provide lavatories which are conveniently located throughout the facility.
- (2) Maintain all lavatory facilities in a functional, clean and sanitary manner at all times.
- (3) Ventilate toilet and wash rooms by exhaust fan or window.
- (4) Provide toilet paper at each toilet at all times.
- (5) Furnish each bathroom with a sink, wall mirror, a soap dispenser, and either individual paper towels or a mechanical dryer.
- (6) Provide privacy in toilets by doors.

§705.25. Kitchens.

The non-residential facility providing meals to clients shall:

- (1) Have at least one kitchen with a refrigerator, a sink, a stove, an oven and adequate cabinet space for storage needs.
- (2) Clean and disinfect all food preparation areas and appliances following each prepared meal.
- (3) Thoroughly clean all eating, drinking and cooking utensils after each usage and store the utensils in a clean enclosed area.

§ 711.67. [Physical plant.] (Reserved).

[When the project is not physically located within a health care facility, it shall be site visited annually for the following requirements:

- (1) Counseling areas.
- (2) Office space.
- (3) Lavatories.
- (4) Fire escapes/emergency exits.
- (5) Fire extinguishers.
- (6) General maintenance.
- (7) Food service areas, if applicable.
- (8) Certificate of Occupancy from the Department of Labor and Industry or its equivalent.
- (9) Compliance with applicable local ordinances and regulations.]

* * *

§ 711.77. [Physical plant.] (Reserved).

[When the project is not physically located within a health care facility, it shall be site visited annually for the following requirements:

- (1) Counseling areas.
- (2) Office space.
- (3) Lavatories.
- (4) Fire escapes/emergency exits.
- (5) Fire extinguishers.
- (6) General maintenance.
- (7) Food service areas, if applicable.
- (8) Certificate of Occupancy from the Department of Labor and Industry or its equivalent.
- (9) Compliance with applicable local ordinances and regulations.]

* * *

§ 711.88. [Physical plant.] (Reserved).

[When the project is not physically located within a health care facility, it shall be site visited annually for the following requirements:

- (1) Counseling areas.
- (2) Office space.

- (3) Lavatories.
- (4) Fire escapes/emergency exits.
- (5) Fire extinguishers.
- (6) General maintenance.
- (7) Food service areas, if applicable.
- (8) Certificate of Occupancy from the Department of Labor and Industry or its equivalent.
- (9) Compliance with applicable local ordinances and regulations.]

* * *

Chapter 713. STANDARDS FOR APPROVAL OF PREVENTION AND INTERVENTION ACTIVITIES

* * *

§ 713.27. [Physical plant.] (Reserved).

[The project shall have provisions for the following requirements:

- (1) Activity or counseling areas.
- (2) Office space.
- (3) Lavatories.
- (4) Fire escapes/emergency exits.
- (5) Fire extinguishers.
- (6) Disaster plan.
- (7) General maintenance.
- (8) Certificate of Occupancy from the Department of Labor and Industry or its equivalent.
- (9) Compliance with applicable local ordinances and regulations.]

Commonwealth of Pennsylvania



DEPARTMENT OF HEALTH
HARRISBURG

ROBERT S. ZIMMERMAN, JR., MPH
SECRETARY OF HEALTH

October 29, 1999

Robert E. Nyce
Executive Director
Independent Regulatory Review Commission
14th Floor, 333 Market Street
Harrisburg, Pennsylvania 17101

**Re: Department of Health Proposed Regulations No. 10-154
Physical Plant Regulations for Inpatient Non-Hospital Activities
(Residential Treatment and Rehabilitation) and Non-Residential
Treatment Activities**

Dear Mr. Nyce:

Attached are proposed regulations for review by the Commission in accordance with the Regulatory Review Act, (71 P.S. §§745.4-745.15). The proposed regulations amend out-dated physical plant regulations for licensure of residential and non-residential drug and alcohol treatment and rehabilitation facilities and services. The purpose of the amendment is to provide minimal protection to ensure the health and safety of clients being served in drug and alcohol programs and employees working in those facilities.

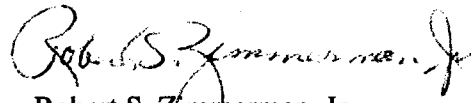
Section 5(g) of the Regulatory Review Act, 71 P.S. §745.5(g), provides that the Commission shall, within 10 days after the expiration of the Standing Committee review period, notify the proposing agency of any objections to the proposed regulations. The regulations are expected to be published November 13, 1999. A 30-day comment period is provided.

Section 5.1(a) of the Regulatory Review Act, 71 P.S. §745.5a(a), provides that upon completion of the agency's review of comments, the agency shall submit to the Commission a copy of the agency's response to the comments received and the text of the final form regulations which the agency intends to adopt.

The Department will provide the Commission within 5 days of receipt, a copy of any comment received pertaining to the proposed regulations. The Department will also provide the Commission with any assistance it requires to facilitate a thorough review of the proposed

regulations. If you have any questions, please contact Stephen H. Surovec, Director of Policy at (717) 787-4525 .

Sincerely,

A handwritten signature in cursive script that reads "Rob. S. Zimmerman, Jr." with a large, stylized flourish at the end.

Robert S. Zimmerman, Jr.
Secretary of Health

Enclosures

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT

RECEIVED

I.D. NUMBER: 10-154
SUBJECT: Drug and Alcohol Facilities and Services
AGENCY: DEPARTMENT OF HEALTH

1999 NOV -1 PM 12: 14

INDEPENDENT REGULATORY
REVIEW COMMISSION

TYPE OF REGULATION

- X Proposed Regulation
Final Regulation
Final Regulation with Notice of Proposed Rulemaking Omitted
120-day Emergency Certification of the Attorney General
120-day Emergency Certification of the Governor
Delivery of Tolled Regulation
a. With Revisions b. Without Revisions

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
11-1-99	<i>Lela Burris</i>	HOUSE COMMITTEE ON HEALTH & HUMAN SERVICES
11/1/99	<i>[Signature]</i>	
11-1-99 11-1-99	<i>Debbie Enton</i> <i>[Signature]</i>	SENATE COMMITTEE ON PUBLIC HEALTH & WELFARE
11/1/99	<i>Ken C Garner</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL
11/1	<i>C. Lee</i>	LEGISLATIVE REFERENCE BUREAU

October 12, 1999