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Senate of Pennsylvania

October 23, 2001

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Honorable John R. McGinley, Jr., Chairman
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

Re: Notice of Disapproval and Report of Objections
Department of Health Final-form Regulation #10-154
Drug and Alcohol Facilities and Services
Physical Plant Regulations for Inpatient Non-Hospital Activities
(Residential Treatment and Rehabilitation) and Non-Residential Treatment Activities

Dear Chairman McGinley:

On October 23, 2001, pursuant to the authority of §5.1 of the "Regulatory Review Act", the Public Health & Welfare Committee of the Senate met to review Department of Health Final-form Regulation #10-154, Drug and Alcohol Facilities and Services. This letter constitutes the Notice of Disapproval and Report of Objections required by §5.1 of the Act.

The Committee members voted 11-0 to disapprove the regulation. The following sections of the regulation were found to be objectionable:

1. §705.7 Kitchens (Residential Facilities) and §705.25 Kitchens (Nonresidential Facilities) - The Committee found these sections to be unreasonable and the economic impact to be excessive. In particular, a facility may be a part of a larger campus of residential and/or nonresidential facilities and programs and there may be a central dining hall or service for the whole campus. To require each individual facility to have its own kitchen would be, therefore, unreasonable and the economic impact would be excessive. Further, the facility may choose to contract out its dining service. To require a facility that does so choose to meet the kitchen requirements of §§705.7 and 705.25 would similarly not be in the public interest.

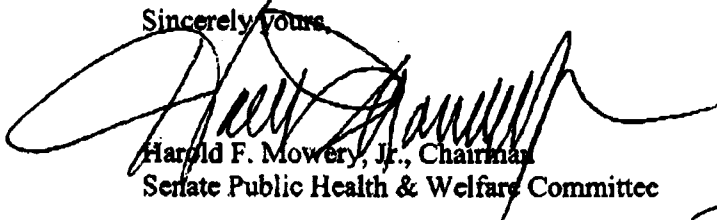
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Honorable John R. McGinley, Jr., Chairman
October 23, 2001
Page 2

2. §705.1(4) (relating to exemptions from certain requirements for facilities licensed prior to the effective date of these regulations) - This section exempts four requirements of §705.5 (Sleeping Accommodations) for facilities licensed prior to the effective date of these regulations: The sections being granted an exemption include the limitation of four persons to a bedroom, §705.5(c), but do not include an exemption for the minimum square foot requirement of §705.5(b) for facilities licensed prior to the effective date of the regulations. The Department of Health has had oversight of the development of drug & alcohol facilities since 1981. It is unreasonable to approve the physical plant configurations of facilities for twenty years, change the requirements for approval of those configurations and then refuse to exempt them from the new standards if there is no compelling public health reason to refuse to do so. The Department of Health has produced no evidence of a compelling public health reason. Quite to the contrary, the regulated community has made a compelling case that failure to grant the exemption will cause the closure of many drug & alcohol beds and some facilities as well. It would be far more appropriate for the department to be removing barriers to Pennsylvanians receiving treatment than to create new ones. The Committee found this section to be unreasonable and the economic impact to be excessive. The Committee wishes to make clear that it does not object to the minimum square foot requirements for new facilities. The objection is to the failure of the Department of Health to grant an exemption to facilities that are currently licensed.

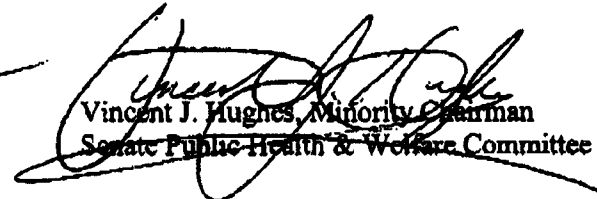
For the reasons stated herein, The Public Health & Welfare Committee of the Senate hereby disapproves Department of Health Final-form Regulation #10-154, Drug and Alcohol Facilities and Services, Physical Plant Regulations for Inpatient Non-Hospital Activities (Residential Treatment and Rehabilitation) and Non-Residential Treatment Activities.

Sincerely yours,



Harold F. Mowery, Jr., Chairman
Senate Public Health & Welfare Committee

Sincerely yours,



Vincent J. Hughes, Minority Chairman
Senate Public Health & Welfare Committee

HFM/hsj

cc. Honorable Robert S. Zimmerman, Secretary
Department of Health

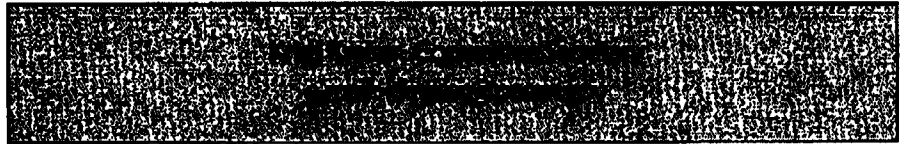


**Senate Public Health & Welfare Committee
Senator Harold F. Mowery, Jr., Chairman**

Room 169 – Main Capitol Building
Harrisburg, PA 17120

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FAX

To: John R. McGinley, Jr., Chairman From: Kristi Kreiser

Fax: 783-2664 Pages: 3 including cover

Phone: 783-5417 Date: 10/23/2001

Re: Regulation #10-154

Urgent For Review FYI Please Reply Per Your Request

● Notes/Comments:

Original being delivered via page!

10/23/2001 10:07 AM
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Senate of Pennsylvania

Original: 2075

Bush

cc: McGinley
Nyce
Sandusky
de Bien
Wilmarth
Smith
Legal
Notebooks

January 24, 2000

Independent Regulatory Review Commission
Robert E. Nyce, Chairman
333 Market Street
Harrisburg 2
14th Floor
Harrisburg, PA 17101

Dear Mr. Nyce:

This correspondence is directed to your good office pursuant to the proposed changes for the licensure of residential drug and alcohol services. The proposed change that I find to be particularly disturbing to existing facilities is Section 705.5 (b) Sleeping accommodations.

“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.”

My primary concern is the reduction of beds available to those in search of treatment. As I am certain you are well aware, the greatest difficulty today is helping individuals find and receive treatment. Initiating the aforementioned space requirements will make placement and subsequent treatment more difficult. In turn, reducing the number of beds would also reduce the budget of such a facility, leading to the forced reduction of hired staff to assist those at the center.

Another area of concern are those non-profit centers, which currently face very strict budget constraints. Forcing them to renovate under these guidelines would only place additional hardships on such facilities.

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Robert Nyce
January 24, 2000

In closing, allow me to thank you in advance for your consideration of this submission.
If I may be of assistance regarding this request, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Lisa Boscola". The signature is written in a cursive style with a long horizontal flourish at the end.

LISA BOSCOLA
State Senator
18th Senatorial District

LMB/alm

cc: Robert C. Csandl, Executive Director, Treatment Trends, Inc.
Theodore Alex, Associate Director, Treatment Trends, Inc.