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INDEPENDENT REGULATORY REVIEW COMMISSION
333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

September 12, 2001

Honorable Robert S. Zimmerman, Jr., Secretary
Department of Health
802 Health and Welfare Building
Harrisburg, PA 17108

Re: Regulation #10-154 (#2075)
Drug and Alcohol Facilities and Services

Dear Secretary Zimmerman:

On Friday, September 7, 2001, we discussed several drafting problems with your staff that we noted in our review of this regulation. These problems could be corrected or clarified through the tolling process. Therefore, we recommend that you toll the review process in order to consider the following revisions:

1. Section 705.1(4) exempts existing residential facilities from the requirements of Section 705.5(c), (e) and (f). However, Paragraphs (e) and (f) in Section 705.5 were redesignated as Paragraphs (d) and (e) in the final-form regulation. The reference in Section 705.1(4) should be amended accordingly.
2. Section 705.5(h) requires each bedroom to have a window. Since this is a new requirement that was not included in the proposed regulation, the Department should consider including Paragraph (h) in the exemptions for existing facilities in Section 705.1(4).
3. The emergency training requirements originally proposed in Sections 705.10(d)(3) and 705.28(d)(3) are being deleted. Since emergency training is not required elsewhere in the regulation, the Department should restore the emergency training requirements in the final-form regulation.
4. Sections 705.10(a)(1)(ii) and 705.28(a)(1)(ii) require 15 feet between exits. This is a minimum standard. Therefore, these sections of the final-form regulation should specify that the exits are to be separated by "a minimum distance of 15 feet."
5. The Department rewrote Paragraph (iii) of Sections 705.10 (a) and 705.28(a) regarding where hand railings are required. As a result, Subparagraph (iv) in each of these sections is no longer needed and should be deleted.

6. In Sections 705.10(d)(2) and 705.28(d)(2), the phrase "...and not when additional staff persons are present" is unnecessary and should be deleted.
7. There is a typographical error in Section 705.6(1). The first use of the word "residents" is not needed.

If the Department chooses to toll the review period, it must deliver written notice to both the Standing Committees and the Commission on the same day. The written notice must be delivered prior to any Standing Committee action on the regulation, or before the end of the Standing Committee's review period on September 13, 2001, whichever occurs first.

As required by Section 307.5 of our regulations, written notice must include:

1. A citation to the section(s) the Department is considering revising,
2. A description of the revisions being contemplated, and
3. An explanation of how the revisions will satisfy our concerns.

If the Commission objects to tolling the review period, we will notify you and the Standing Committees within two business days after receipt of your tolling notice. In the event the Commission objects to your tolling notice, the review period will not be tolled and your regulation will be considered by the Commission at our public meeting on September 20, 2001. If the Commission does not object, the review period is tolled for up to 30 days beginning with receipt of your letter and ending on the day you resubmit the regulation.

If you have any questions, please call me at 783-5506.

Sincerely,



Robert E. Nyce
Executive Director

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cc: Honorable Dennis M. O'Brien, Majority Chairman, House Health and Human Services Committee
Honorable Frank L. Oliver, Democratic Chairman, House Health and Human Services Committee
Honorable Harold F. Mowery, Jr., Chairman, Senate Public Health and Welfare Committee
Honorable Vincent J. Hughes, Minority Chairman, Senate Public Health and Welfare Committee
Nia Wilson, Legal Counsel, House Health & Human Services Committee
Stanley Mitchell, Chief Counsel, House Health & Human Services Committee
John C. Hair, Director, Bureau of Community Program Licensure and Certification