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REVIEW COMMISSION

DEPARTMENT OF HEALTH

HARRISBURG

September 13, 2001

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

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

Re: Regulation No. 10-154
Drug and Alcohol Facilities and Services

Dear Mr. Nyce:

The Independent Regulatory Review Commission has suggested revisions to sections of the final-form regulation to No. 10-154 (relating to Drug and Alcohol Facilities and Services), that was submitted for your review on August 24, 2001. At the Commission's recommendation, we are requesting that the time for review of the regulations be tolled to revise the regulations as follows:

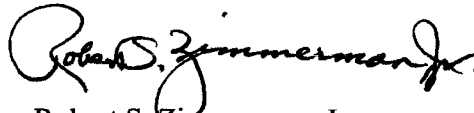
1. Section 705.1(4) exempts existing residential facilities from the requirements of Section 705.5(c), (e) and (f). However, Paragraphs (e) and (f) in Section 705.5 were redesignated as Paragraphs (d) and (e) in the final-form regulation. The reference in Section 705.1(4) will be amended accordingly.
2. Section 705.5(h) requires each bedroom to have a window. This is a new requirement that was not included in the proposed regulation. The Department will include 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 will 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. These sections of the final-form regulation will 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 will 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 will be deleted.
7. There is a typographical error in Section 705.6(1). The first use of the word "residents" is not needed and will be deleted.

These revisions reflect clarification and correction of certain sections. By making these changes, the Department will have satisfied the Commission's concerns set forth in your letter dated September 12, 2001.

If you have any questions about this tolling request, please contact John Hair, Director, Bureau of Community Program Licensure and Certification at (717) 783-8665.

Sincerely,



Robert S. Zimmerman, Jr.
Secretary of Health

cc: Honorable Dennis M. O'Brien, Majority Chairman, House Health & Human Services Comm.
Honorable Frank L. Oliver, Minority Chairman, House Health & Human Services Comm.
Honorable Harold F. Mowery, Jr., Majority Chairman, Senate Public Health & Welfare Comm.
Honorable Vincent J. Hughes, Minority Chairman, Senate Public Health & Welfare Comm.

Annex A

TITLE 28. HEALTH AND SAFETY

* * *

PART V. DRUG AND ALCOHOL FACILITIES AND SERVICES

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Chapter 701. GENERAL PROVISIONS

Subchapter A. DEFINITIONS

§701.1 General definitions.

The following words and terms, when used in this part, have the following meanings, unless the context clearly indicates otherwise:

* * *

Nonresidential 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, nonhospital facility or inpatient freestanding 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

SUBCHAPTER A. RESIDENTIAL SERVICES FACILITIES

§705.1. General requirements for ~~inpatient nonhospital~~ RESIDENTIAL facilities (residential treatment and rehabilitation).

THE RESIDENTIAL FACILITY SHALL:

- (1) HOLD A LICENSE PURSUANT TO CHAPTER 709 (RELATING TO STANDARDS FOR LICENSURE OF FREESTANDING TREATMENT FACILITIES).

(2) HAVE A CERTIFICATE OF OCCUPANCY FROM THE DEPARTMENT OF LABOR AND INDUSTRY OR ITS LOCAL EQUIVALENT.

~~(a)~~ (3) ~~The residential facility shall comply~~ COMPLY with 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)~~ (4) ~~A residential facility licensed prior to _____ is exempt~~ BE EXEMPT from §705.5(c), ~~(e) and (f)~~ (D), (E) and (H) (relating to sleeping accommodations) IF LICENSED PRIOR TO (the effective date of Chapter).

§705.2. Building exterior and grounds.

The residential facility shall:

- (1) Maintain all structures, fences and playground equipment, when 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 CLEAN, SAFE, SANITARY AND IN GOOD REPAIR AT ALL TIMES FOR THE SAFETY AND WELL-BEING OF RESIDENTS, EMPLOYEEES AND VISITORS. THE EXTERIOR OF THE BUILDING AND THE BUILDING GROUNDS OR YARD SHALL BE FREE OF HAZARDS.
- (3) Keep exterior exits, stairs and walkways lighted at night.
- (4) Store securely all TRASH, garbage and rubbish in noncombustible, covered containers THAT PREVENT THE PENETRATION OF INSECTS AND RODENTS, and remove it on a regular basis, at least once every week.

§705.3. Living rooms and lounges.

The residential facility shall:~~(1)Contain~~ 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 AND INVITED GUESTS. THE FACILITY SHALL ~~(2) Maintain~~ 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 LOCATE counseling areas and which will IN SUCH A MANNER THAT NOISE DOES not present a distraction DISTURB or interference to INTERFERE WITH counseling SESSIONS.

§705.5. Sleeping accommodations.

- (a) In bedrooms, a EACH residential facility BEDROOM, EACH RESIDENT shall furnish HAVE the following for each resident:
 - (1) A bed frame of WITH solid construction FOUNDATION and sized appropriately to the needs of the resident FIRE RETARDANT MATTRESS IN GOOD REPAIR.
 - (2) A clean, comfortable mattress and foundation in good repair.
 - (3) (2) A clean, comfortable pillow AND BEDDING APPROPRIATE FOR THE TEMPERATURE IN THE FACILITY.
 - (4) Bed covering appropriate for climate.
 - (5) (3) A chest of drawers STORAGE AREA FOR CLOTHING.
 - (6) Closet or wardrobe space with clothing racks and shelves accessible to the resident.

- (b) ~~For each resident sharing a EACH SHARED bedroom, the residential facility shall provide a minimum of~~ **HAVE AT LEAST 60 square feet of bedroom FLOOR space per bed RESIDENT MEASURED WALL TO WALL, including space occupied by furniture. WHEN BUNK BEDS ARE USED, EACH BEDROOM SHALL HAVE AT LEAST 50 SQUARE FEET OF FLOOR SPACE PER RESIDENT MEASURED WALL TO WALL. BUNK BEDS SHALL AFFORD ENOUGH SPACE IN BETWEEN EACH BED AND THE CEILING TO ALLOW A RESIDENT TO SIT UP IN BED. BUNK BEDS SHALL BE EQUIPPED WITH A SECURELY ATTACHED LADDER CAPABLE OF SUPPORTING A RESIDENT. BUNK BEDS SHALL BE EQUIPPED WITH SECURELY ATTACHED RAILINGS ON EACH OPEN SIDE AND OPEN END OF THE BUNK. THE USE OF BUNK BEDS SHALL BE PROHIBITED IN DETOXIFICATION PROGRAMS.** ~~For each resident occupying a EACH single bedroom, the facility shall have a minimum of 80~~ **AT LEAST 70 square feet of bedroom FLOOR space PER RESIDENT MEASURED WALL TO WALL, including space occupied by furniture.**
- (c) ~~No more than four residents shall sleep in one~~ **SHARE A bedroom.**
- (d) ~~When a residential facility uses bunk beds, each mattress shall be positioned to allow each occupant to sit up in bed.~~
- (e) (D) Each bedroom shall have direct access to a corridor or external exit.
- (f) (E) A bedroom may not be used as a regular means of egress FROM OR ACCESS TO ANOTHER PART OF THE FACILITY.
- (g) (F) Sole entrances to stairways or basements may not be located in a resident's bedroom.
- (h) (G) Each bedroom shall be ventilated by operable windows or have mechanical ventilation.
- (H) **EACH BEDROOM SHALL HAVE A WINDOW WITH A SOURCE OF NATURAL LIGHT.**
- (i) A residential facility shall prohibit smoking and use of candles in bedrooms.
- (j) ~~A residential facility may locate bedrooms~~ **BEDROOMS LOCATED in the A basement provided the SHALL MEET THE following criteria are met** **REQUIREMENTS:**
- (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 **BATHROOMS TO ACCOMMODATE STAFF, RESIDENTS AND OTHER USERS OF THE FACILITY.**
- (2) Provide A SINK, a wall mirror, a AN OPERABLE 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. **HAVE HOT AND COLD WATER UNDER PRESSURE. HOT WATER TEMPERATURE MAY NOT EXCEED 120° F.**
- (4) Provide privacy in toilets by doors, and in showers and bathtubs by partitions, doors or curtains. **THERE SHALL BE SLIP-RESISTANT SURFACES IN ALL BATHTUBS AND SHOWERS.**
- (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 **BATHROOM** in a functional, clean and sanitary manner at all times.

§705.7. Kitchens.

The residential facility:

- (1) Shall have at least one A kitchen with a refrigerator, a sink, a stove, an oven, and adequate cabinet space for storage needs.

- (2) Shall clean and disinfect food preparation areas and appliances following each prepared meal.
- (3) Shall thoroughly clean all eating, drinking and cooking utensils AND ALL FOOD PREPARATION AREAS after each usage and store the utensils in a clean enclosed area.
- (4) Shall ensure that storage areas for foods are cleanable and free of food particles, dust and dirt.
- (5) Shall properly refrigerate or store in closed or sealed containers which are labeled by content and date of preparation, all prepared food items KEEP COLD FOOD AT OR BELOW 40°F, HOT FOOD AT OR ABOVE 140°F, AND FROZEN FOOD AT OR BELOW 0°F.
- (6) Shall store all food items off the floor.
- (7) May not permit pets in the kitchen and dining areas.
- (8) Shall prohibit smoking in kitchen areas.

§705.8. Heating and cooling.

The residential facility:

- (1) Shall have a heating and cooling ventilation system that is adequate to maintain an indoor temperature of at least 65°F in the winter. and WHEN INDOOR TEMPERATUTES EXCEED ~~no more than 90° F, in the summer.~~ MECHANICAL VENTILATION SUCH AS FANS OR AIR CONDITIONING SHALL BE USED.
- (2) May 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 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. (i) These procedures shall be developed with the assistance of qualified fire and safety personnel. (ii) Procedures shall also WHICH SHALL include provisions for:
 - (I) the THE EVACUATION AND 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.
 - (II) ASSIGNMENTS of staff during emergencies.
 - (III) **THE EVACUATION AND TRANSFER OF RESIDENTS IMPAIRED BY ALCOHOL OR OTHER DRUGS.**
- (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
A MINIMUM OF TWO EXITS ON EVERY FLOOR, INCLUDING THE BASEMENT, THAT ARE SEPARATED BY A MINIMUM DISTANCE OF 15 FEET.
 - (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. **MAINTAIN EACH RAMP, INTERIOR STAIRWAY AND OUTSIDE STEPS EXCEEDING TWO STEPS WITH A WELL-SECURED HANDRAIL AND MAINTAIN EACH PORCH THAT HAS OVER AN 18 INCH DROP WITH A WELL-SECURED RAILING.**

~~(iv)~~ Provide a hand railing on each stairway.

~~(v)~~(IV) Clearly indicate exits by the use of signs.

~~(vi)~~(V) 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 OPERABLE, automatic smoke detector on each floor, including the basement and attic.

(2) On floors with resident bedrooms, maintain a smoke detection device DETECTOR which shall be located outside the bedrooms WITHIN 15 FEET OF EACH BEDROOM DOOR. 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) **REPAIR INOPERABLE SMOKE DETECTORS OR FIRE ALARMS WITHIN 48 HOURS OF THE TIME THE DETECTOR OR ALARM IS FOUND TO BE INOPERATIVE.**

~~(3)~~ (4) Maintain a manual fire alarm system that is audible throughout the facility in a residential facility where four or more residents reside.

~~(4)~~(5) Maintain automatic smoke detectors and fire alarms of a type approved by the Department of Labor and Industry or by the Underwriters Laboratories.

(6) **MAINTAIN ALL SMOKE DETECTORS AND FIRE ALARMS SO THAT EACH PERSON WITH A HEARING IMPAIRMENT WILL BE ALERTED IN THE EVENT OF A FIRE, IF ONE OR MORE RESIDENTS OR STAFF PERSONS ARE NOT ABLE TO HEAR THE SMOKE DETECTOR OR FIRE ALARM SYSTEM.**

(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.

- (i) This fire extinguisher shall meet the requirement of paragraph (1), for at least one portable fire extinguisher for a 2,000 square foot area.
 - (ii) A residential facility shall place the fire THE extinguisher in the kitchen area 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. IF A FIRE EXTINGUISHER IS FOUND TO BE INOPERABLE, IT SHALL BE REPLACED OR REPAIRED WITHIN 48 HOURS OF THE TIME IT WAS FOUND TO BE INOPERABLE.
 - (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. UNANNOUNCED FIRE DRILLS AT LEAST ONCE A MONTH.
 - (2) Conduct fire drills at different times of the day and night. Hypothetical locations of the fire shall be different for each drill. DURING NORMAL STAFFING CONDITIONS.
 - (3) Ensure that all personnel on all shifts are trained to perform assigned tasks during emergencies.
 - (4) **MAINTAIN A WRITTEN FIRE DRILL RECORD INCLUDING THE DATE, TIME, THE AMOUNT OF TIME IT TOOK FOR EVACUATION, THE EXIT ROUTE USED, THE NUMBER OF PERSONS IN THE FACILITY AT THE TIME OF THE DRILL, PROBLEMS ENCOUNTERED AND WHETHER THE FIRE ALARM OR SMOKE DETECTOR WAS OPERATIVE.**
 - (5) **CONDUCT A FIRE DRILL DURING SLEEPING HOURS AT LEAST EVERY 6 MONTHS.**
 - (6) **PREPARE ALTERNATE EXIT ROUTES TO BE USED DURING**

FIRE DRILLS.

- (7) **CONDUCT FIRE DRILLS ON DIFFERENT DAYS OF THE WEEK, AT DIFFERENT TIMES OF THE DAY AND NIGHT AND ON DIFFERENT STAFFING SHIFTS.**
- (8) **SET OFF A FIRE ALARM OR SMOKE DETECTOR DURING EACH FIRE DRILL.**
- (9) **PROHIBIT THE USE OF ELEVATORS DURING A FIRE DRILL OR A FIRE.**

§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~~ FROM 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 OR SAFETY LOCKS for all OPERABLE windows.
 - (iii) Maintain protective caps over each electrical outlet ~~within reach of small children.~~
 - (iv) Secure all ~~storage areas where potentially dangerous~~ HAZARDOUS AND POISONOUS ~~substances are kept~~ AND MATERIALS with safety latches or locks.

SUBCHAPTER B. NONRESIDENTIAL SERVICES FACILITIES

§705.21. General requirements for nonresidential treatment facilities.

The nonresidential facility shall:

- (1) **HOLD A LICENSE PURSUANT TO CHAPTER 709 (RELATING TO STANDARDS FOR LICENSURE OF FREESTANDING TREATMENT FACILITIES).**
- ~~(1)~~ (2) Have a certificate of occupancy from the Department of Labor and Industry or its local equivalent.
- ~~(2)~~ (3) Comply with other applicable Federal, State and local laws and ordinances.

§705.22. Building exterior and grounds.

The nonresidential facility shall:

- (1) Maintain all structures, fences and playground equipment, when 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 **CLEAN, SAFE, SANITARY AND IN GOOD REPAIR AT ALL TIMES FOR THE SAFETY AND WELL BEING OF RESIDENTS, EMPLOYEES AND VISITORS. THE EXTERIOR OF THE BUILDING AND THE BUILDING GROUNDS OR YARD SHALL BE FREE OF HAZARDS.**
- (3) Keep exterior exits, stairs, and walkways lighted at night if in use.
- (4) Store ~~securely~~ all TRASH garbage and rubbish in noncombustible, covered containers THAT PREVENT THE PENETRATION OF INSECTS AND RODENTS, and remove it on a regular basis, at least once every week.

§705.23. Counseling or activity areas and office space.

The nonresidential 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 LOCATE counseling areas and which shall IN SUCH A MANNER THAT NOISE DOES not present a distraction DISTURB or interference to INTERFERE WITH counseling SESSIONS.

§705.24. Bathrooms.

The nonresidential facility shall:

- (1) Provide lavatories which are conveniently located throughout the facility BATHROOMS TO ACCOMMODATE STAFF, RESIDENTS AND OTHER USERS OF THE FACILITY.
- (2) Maintain lavatory facilities in a functional, clean and sanitary manner.
- (2) **PROVIDE A SINK, A WALL MIRROR, AN OPERABLE SOAP DISPENSER, AND EITHER INDIVIDUAL PAPER TOWELS OR A MECHANICAL DRYER IN EACH BATHROOM.**
- (3) **HAVE HOT AND COLD WATER UNDER PRESSURE. HOT WATER TEMPERATURE MAY NOT EXCEED 120° F.**
- (4) **PROVIDE PRIVACY IN TOILETS BY DOORS.**
- ~~(3)~~ (5) Ventilate toilet and wash rooms BATHROOMS by exhaust fan or window.
- ~~(4)~~ (6) 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.

- (7) MAINTAIN EACH BATHROOM IN A FUNCTIONAL, CLEAN AND SANITARY MANNER AT ALL TIMES.

§705.25. Kitchens.

The nonresidential facility providing meals to clients:

- (1) Shall have at least one A kitchen with a refrigerator, a sink, a stove, an oven and adequate cabinet space for storage needs.
- (2) Shall clean and disinfect food preparation areas and appliances following each prepared meal.
- (3) Shall thoroughly clean all eating, drinking and cooking utensils AND ALL FOOD PREPARATION AREAS after each usage and store the utensils in a clean enclosed area.
- (4) Shall ensure that storage areas for foods are cleanable and free of food particles, dust and dirt.
- (5) Shall properly refrigerate or store in closed or sealed containers which are labeled by content and date of preparation all prepared food items KEEP COLD FOOD AT OR BELOW 40° F, HOT FOOD AT OR ABOVE 140° F, AND FROZEN FOOD AT OR BELOW 0° F.
- (6) Shall store all food items off the floor.
- (7) May not permit pets in the kitchen and dining areas.
- (8) Shall prohibit smoking in kitchen areas.

§705.26. Heating and cooling.

The nonresidential facility:

- (1) Shall have a heating and cooling ventilation system that is adequate to maintain an indoor temperature of at least 65° F in the winter. and WHEN INDOOR TEMPERATURES EXCEED ~~no more than~~ 90° F, in the ~~summer~~ MECHANICAL VENTILATION SUCH AS FANS OR AIR CONDITIONING SHALL BE USED.
- (2) May not permit in the nonresidential facility heaters that are not

permanently mounted or installed.

§705.27. General safety and emergency procedures.

The nonresidential facility shall:

- (1) Be free of rodent and insect infestation.
- (2) Require that pets which are housed in a nonresidential 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. (i) These procedures shall be developed with the assistance of qualified fire and safety personnel. (ii) Procedures shall also WHICH SHALL include provisions for:
 - (I) the THE evacuation of buildings or for the transfer of clients AND TRANSFER OF CLIENTS and staff to a safe location within the building, and for assignments.
 - (II) ASSIGNMENTS of staff during emergencies.
- (5) Notify the Division of Drug and Alcohol Program Licensure DEPARTMENT within 48 hours of a fire, other disaster or situation which affects the continuation of services.

§705.28. Fire safety.

(a) Exits.

- (1) The nonresidential facility shall:
 - (i) Ensure that stairways, hallways and exits from rooms and from the nonresidential 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 A MINIMUM OF TWO EXITS ON EVERY FLOOR, INCLUDING THE BASEMENT, THAT ARE SEPARATED BY A MINIMUM DISTANCE OF 15 FEET.

~~(iii)~~ Clearly indicate exits by the use of signs.

~~(iv)~~ **(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. MAINTAIN EACH RAMP, INTERIOR STAIRWAY AND OUTSIDE STEPS EXCEEDING TWO STEPS WITH A WELL-SECURED HANDRAIL AND MAINTAIN EACH PORCH THAT HAS OVER AN 18 INCH DROP WITH A WELL-SECURED RAILING.**

~~(v)~~ Provide a hand railing for each stairway.

(IV) CLEARLY INDICATE EXITS BY THE USE OF SIGNS.

~~(vi)~~ **(V) 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 nonresidential facility shall:

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

~~(2)~~ Place the smoke detection device DETECTOR in a common area or hallway. ~~Detection~~ ALL DETECTION devices shall be interconnected.

~~(3)~~ **REPAIR INOPERABLE SMOKE DETECTORS OR FIRE ALARMS WITHIN 48 HOURS OF THE TIME THE DETECTOR OR ALARM IS FOUND TO BE INOPERATIVE.**

~~(4)~~ **MAINTAIN A MANUAL FIRE ALARM SYSTEM THAT IS AUDIBLE THROUGHOUT THE FACILITY.**

~~(3)~~ ~~(5)~~ 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 nonresidential 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.
 - (i) This fire extinguisher SHALL meet the requirements of one portable fire extinguisher for a 2,000 square foot area.
 - (ii) 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. IF A FIRE EXTINGUISHER IS FOUND TO BE INOPERABLE, IT SHALL BE REPLACED OR REPAIRED WITHIN 48 HOURS OF THE TIME IT WAS FOUND TO BE INOPERABLE.
- (4) Instruct the staff in the use of the fire extinguisher upon staff employment. This instruction shall be documented by the facility.

(d) Fire drills. The nonresidential 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 UNANNOUNCED FIRE DRILLS AT LEAST ONCE A MONTH.
- (2) Conduct fire drills at different times of the day and night. Hypothetical locations of the fire shall be different for each drill DURING NORMAL STAFFING CONDITIONS.
- (3) Ensure that all personnel on all shifts are trained to perform assigned tasks during emergencies.
- (4) **MAINTAIN A WRITTEN FIRE DRILL RECORD INCLUDING THE DATE, ITEM, THE AMOUNT OF TIME IT TOOK FOR EVACUATION, THE EXIT ROUTE USED, THE NUMBER OF PERSONS IN THE FACILITY AT THE TIME OF THE DRILL, PROBLEMS ENCOUNTERED AND WHETHER THE FIRE ALARM OR SMOKE DETECTOR WAS OPERATIVE.**
- (5) **PREPARE ALTERNATE EXIT ROUTES TO BE USED DURING**

FIRE DRILLS.

- (6) **CONDUCT FIRE DRILLS ON DIFFERENT DAYS OF THE WEEK, AT DIFFERENT TIMES OF THE DAY AND ON DIFFERENT STAFFING SHIFTS.**
- (7) **SET OFF A FIRE ALARM OR SMOKE DETECTOR DURING EACH FIRE DRILL.**
- (8) **PROHIBIT THE USE OF ELEVATORS DURING A FIRE DRILL OR A FIRE.**

§705.29. Child care.

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

- (1) Building exterior and grounds. The nonresidential facility shall:
 - (i) Fence off or have natural barriers to protect children ~~for~~ FROM 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 nonresidential facility shall:
 - (i) Provide an interior play area which meets the developmental and recreational needs of the children in care.
 - (ii) Maintain security screens OR SAFETY LOCKS for all OPERABLE windows.
 - (iii) Maintain protective caps over each electrical outlet ~~within reach of small children.~~
 - (iv) Secure all ~~storage areas where any potentially dangerous~~ HAZARDOUS AND POISONOUS ~~substances are kept~~ AND MATERIALS with safety latches or locks.

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Chapter 709. STANDARDS FOR LICENSURE OF FREESTANDING TREATMENT FACILITIES.

Subchapter C. GENERAL STANDARDS FOR FREESTANDING TREATMENT ACTIVITIES

* * *

§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.]

Subchapter G. STANDARDS FOR INPATIENT NONHOSPITAL ACTIVITIES – TRANSPORTATION LIVING FACILITIES (TLFs)

* * *

§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

Subchapter C. 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.]

Subchapter D. STANDARDS FOR INPATIENT NONHOSPITAL ACTIVITIES – RESIDENTIAL TREATMENT AND REHABILITATION

* * *

§ 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.]

Subchapter E. STANDARDS FOR INPATIENT NONHOSPITAL ACTIVITIES – SHORT-TERM DETOXIFICATION

* * *

§ 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.]

Subchapter F. STANDARDS FOR INPATIENT NONHOSPITAL ACTIVITIES – TRANSITIONAL LICENSING FACILITIES (TLFs)

* * *

§ 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.]

Subchapter G. STANDARDS FOR PARTIAL HOSPITALIZATION ACTIVITIES

* * *

§ 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

Subchapter C. GENERIC STANDARDS FOR 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.]

The Department of Health (Department) hereby adopts amendments to 28 Pa. Code Part V (relating to drug and alcohol facilities and services), to read as set forth in Annex A.

PURPOSE AND BACKGROUND

These amendments establish updated and relevant physical plant standards for the licensure of residential and nonresidential services which protect the health and safety of clients being served in drug and alcohol programs within this Commonwealth and employees working in those facilities. These standards 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) currently inspects and licenses 853 (215 residential and 638 non-residential) drug and alcohol facilities and applies physical plant standards from Chapters 709, 711 and 713 (relating to standards for licensure of freestanding treatment facilities; standards for certification of treatment activities which are a part of a health care facility; and standards for approval of prevention and intervention activities). 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 has been created to replace current physical plant regulations which were found throughout Part V. Those physical plant standards as applied to drug and alcohol treatment and rehabilitation facilities and services were not consistent with current health,

safety, fire and panic code requirements. They were insufficient to provide minimal health and safety protection for clients and employees. They were vague and minimal in scope. Enforcement for the protection of individuals in these facilities was difficult. The new standards will provide sufficient guidance and detail to inform facilities exactly what is expected and required. They represent a dramatic improvement in the protection of the patients and employees at the facilities, and they are clear to allow for precise and uniform enforcement.

Regulations repealed by this amendment relating to physical plants were located in eight separate subchapters, each dealing with a different type of facility. Those regulations were, for the most part, identical. The more logical approach being applied here is to consolidate all physical plant regulations into one chapter where they can be easily referenced, and to delete the separate physical plant regulations located throughout.

SUMMARY

This final rulemaking amends 28 Pa. Code Part V (relating to drug and alcohol facilities and services) by amending section 701.1 (general definitions) in Chapter 701 (relating to general provisions); deleting various sections in Chapters 709 (relating to standards for licensure of freestanding treatment facilities), 711 (relating to standards for certification of treatment activities which are a part of a health care facility), and 713 (relating to standards for appeal of prevention and intervention activities). This final rulemaking also adds Chapter 705 (relating to physical plant standards).

GENERAL COMMENTS

Proposed rulemaking was published at 29 Pa. B. 5835 (November 13, 1999). A 30-day comment period was provided. The Department received comments from 17 commentators. The commentators were IRRC, the Department of Public Welfare, (DPW) (which provided informal comments to the Department in the Spring of 2000, after the public comment period closed), 4 legislators, 2 counties, the Pennsylvania Halfway House Association, the Philadelphia Alliance and 7 providers. Some comments were identical to others and, where duplicated, are only recited once.

Many of the comments received from the DPW suggested that these regulations be made consistent with the DPW's Child Residential and Day Treatment Facility regulations (55 Pa. Code §3800.1 et seq.). As much as possible, such consistency has been achieved.

The Department consulted with the Department of Labor and Industry (L & I) regarding the Pennsylvania Construction Code Act (Act 45-1999) and regulations to be adopted with that code. L & I's proposed regulations will most likely be published by the end of July, 2001. L & I hopes to have the final-form regulations approved by the end of 2001. These regulations have been reviewed in light of the Construction Code and its proposed regulations. There appear to be no inconsistencies between the two sets of regulations. If an inconsistency is identified after the L & I regulations are issued in final-form, the Department will review its regulations at that time and determine whether amendments are necessary.

CHAPTER 701. GENERAL PROVISIONS

Subchapter A. Definitions

Section 701.1 (relating to definitions) defines the types of facilities used in these regulations. No comments addressing this section were received. This section is adopted as proposed.

CHAPTER 705. PHYSICAL PLANT STANDARDS

This chapter addresses the standards for physical plant for residential and non-residential facilities. Most of the comments that were made to Subchapter A (relating to residential facilities) were also made to Subchapter B (relating to nonresidential facilities). Rather than repeat the comments and the Department's response to them, the Department will address the parallel regulations simultaneously and provide one response to similar comments applicable to both sections.

Section 705.1. General requirements for residential facilities; Section 705.21. General requirements for nonresidential facilities.

These sections establish general requirements for all facilities.

Comment: The preamble and proposed subsection (c) discuss licensure of facilities. However, licensure is not included in the general requirements. The regulations should be

amended to include a cross-reference to existing requirements for licensure found in sections 709.11 – 709.18.

Response: The Department agrees with this comment and has amended these sections to include a specific reference to the licensure requirements in Chapter 709 (relating to standards for licensure of freestanding treatment facilities).

Sections 705.2 and 705.22. Building exterior and grounds.

These sections deal with maintenance of the outside and grounds of all facilities.

Comment: The reference in paragraph (1) to playgrounds is not applicable.

Response: The Department disagrees with this comment. Often facilities admit women for treatment who have children. These children stay with their mothers. Thus, some residential facilities do have children and provide playground equipment for those children. Paragraph (1) does state that compliance is required “when applicable.”

Comments: Paragraph (2) requires grounds of the facility to be in “good condition.” The phrase “good condition” is unclear. The Department should either add specific requirements for the grounds or delete the requirement that the grounds be in good condition.

Use general and measurable words such as “free from hazards”.

Response: The Department agrees with these comments. The unclear language has been deleted and replaced with general and measurable language.

Comments: Paragraph (4) requires removal of garbage “on a regular basis, at least once a week.” The phrase “on a regular basis” is unnecessary and should be deleted.

Use general and measurable words such as “trash outside the facility shall be kept in closed receptacles that prevent the penetration of insects and rodents.”

Response: The Department agrees with these comments and has amended the paragraphs accordingly.

Section 705.3. Living rooms and lounges.

This section provides for minimum comfort standards in living spaces in residential facilities.

Comments: Proposed paragraph (1) is vague. The Department should delete “appropriately furnished” and “which creates a relaxed and comfortable atmosphere” or use standards that can be clearly understood and enforced.

Use general and measurable words such as “accommodate number of people” and “free from hazard”.

Response: The Department agrees with these comments and has amended the section accordingly.

Sections 705.4 and 705.23. Counseling areas.

These sections deal with providing for appropriate space and privacy for counseling.

Comments: The phrase “adequate space” in paragraph (1) is unclear. The Department should delete the term or use a standard that can be clearly understood and enforced.

Paragraph (2) is unclear. The Department should delete “comfortable furnishings” and “which are appropriate for the intended purpose” or use standards that can be clearly understood and enforced.

The term “sufficient” in paragraph (3) is not measurable.

The Department should clarify that there should not be excessive noise that disturbs counseling sessions in paragraph (4).

Response: The Department agrees with these comments and has amended these sections accordingly.

Section 705.5. Sleeping accommodations.

This section establishes minimal adequate safety standards for sleeping quarters in residential facilities.

Comment: Reference should be made to the various provisions of 55 Pa. Code §3800.102 (relating to bedrooms).

Response: This section has been rewritten to be consistent with DPW regulations.

Comment: Subsection (a) has several vague requirements. Paragraph (1) requires bed frames to be of “solid construction” and “sized appropriately to the needs of the resident.” Paragraphs (2) and (3) use the term “comfortable.” The Department should delete these phrases, or use standards that can be clearly understood and enforced.

Response: This subsection is rewritten as suggested. Paragraphs (2) and (3) were combined, as were paragraphs (4) and (5). The word “comfortable” has been deleted in several paragraphs.

Comments: Subsection (b) requires facilities to provide a minimum of 60 square feet of bedroom space per bed (including space occupied by furniture) for each resident sharing a room and a minimum of 80 square feet for single bedrooms. The square footage requirement

is unreasonable. The Department should reconsider the impact of this provision. This requirement could cause facilities to eliminate beds and lose significant income.

The Department states that existing facilities would be exempted from certain requirements which might impose costs too great for them to absorb and continue to function effectively. The Department should explain

- the need for this requirement and why the square footage requirements are not included with the “grandfather” exemptions in section 705.1(c),
- how many currently licensed facilities would not meet the requirement in subsection (b) based on their current population, and
- how many beds would be lost to existing facilities and how much income these facilities would lose as a result of the proposed square footage requirements.

A significant number of long standing programs will be adversely affected by the 60 square feet per resident requirement.

The “retrofit or close” effect of this section would be very hurtful, especially in the area of women’s and children’s services.

The listed dimensions would create a conflict in the ability of licensed facilities to serve persons due to limitations of existing bedrooms in terms of floor space and ceiling height.

In requiring a minimum of 60 square feet of space per bed, subsection (b) does not exempt existing facilities. If these regulations are made effective, some facilities would be

unable to meet the requirement. The population of these facilities would be reduced. These facilities have been licensed for a certain number of residents. This regulation conflicts with the current licensing capacity of the facility. This regulation would decrease the number of available treatment beds within the Commonwealth. Those facilities operating at less capacity would have increased per diem costs. In essence, it would cost more per day to treat an individual and fewer individuals will receive treatment at the same costs to the Commonwealth as before these regulations.

In the case of facilities serving women with children, where the children are residents with their addicted mother, it is often clinically appropriate to have the children in the bedroom with the mothers, thus increasing the number of individuals in excess of four. The standard would result in future programs that serve women with children being forced to provide bedrooms which would accommodate fewer than four women residents because the children would have to be counted in the bedroom number. This regulation would result in higher cost of construction which could not be adequately reimbursed through a fee for service arrangement.

These regulations result in the decommissioning of available beds, thereby decreasing the availability of treatment services to those in need.

While available beds would decrease, the per diem costs of each bed would increase proportionately. Replacing these beds would be difficult, if not impossible. Zoning for drug and alcohol facilities has become more difficult each year. In some cities and townships, the

establishment of a drug and alcohol facility is impossible. When zoning is permitted, it is usually in neighborhoods with older buildings making renovations very expensive.

A 110 square foot space with a bunk bed would only accommodate one resident. This site would cause some programs to reduce their population to a point where they would no longer be able to financially support themselves.

The 60 square feet space requirement will place a severe hardship on many existing treatment facilities and halfway houses. Most nonprofit organizations operate under stringent budget constraints. When they are forced to eliminate beds to meet space standards, the loss in revenue will force many to reduce staff, placing further limits on treatment availability. The loss of only a few beds could force small agencies to close. Existing agencies should be grandfathered, permitting them to continue utilizing current sleeping accommodations.

The American Correctional Association (ACA) Standards for Adult Community Residential Services' sleeping accommodations requirement is 25 square feet of unencumbered space per client, a lower space requirement than that proposed in this section. When the number of clients (beds) must be reduced, staff must be terminated and treatment capability is reduced, stressing an already taxed system.

The space requirements contained in the proposed standard would have a tremendous impact on the public treatment system and result in significantly increased costs. For programs that utilize bunk beds, the requirement would be excessive. The requirement will result in the loss of beds, thus increasing rates.

Sixty square feet per person will negatively affect programs to the extent of severely limiting total treatment capability accessible to publicly funded clients.

Response: The square footage requirements have been reduced from 80 square feet to 70 square feet for individuals occupying a single bedroom. This change should significantly alleviate the concerns expressed in the comments since an individual occupying a single room can be accommodated in a 10x7 room. To add another person in this space would be contrary to the health and safety aspects sought to be achieved by these regulations. Wording has been added to reduce the square footage requirements when bunk beds are used from 60 square feet per person to 50 square feet per person. In essence, this allows for two people, with beds, dressers, chairs and anything else they might have, to share a 10x10 room. To allow any less space per resident, again, would be detrimental to the treatment and rehabilitation process.

This regulation will not affect programs with women and children. While children are considered residents, and children are kept with the mother, most facilities limit the number of children to 2 and on a limited basis, 3. No facility currently has women with more than 3 children. There are 13 facilities that treat women with children and there is consensus that program growth in this area is not anticipated.

As for the recommendation that current facilities be “grandfathered” in these regulations, it would not be appropriate to include the square footage requirement in the “grandfathering” provision because such an exemption would not reduce the overcrowding

situations that currently exist and that cause some of the significant health and safety concerns these regulations are intended to address. Since the growth of residential facilities is slow, requiring only new facilities to meet the square footage requirements would not address the current overcrowding issue.

Based upon comments received, it is estimated that relatively few facilities will not meet these square footage requirements. It is not known how many beds, if any, will be lost at existing facilities. It certainly is possible that some may be lost, thus causing a decrease in the licensed capacity at a particular facility. It is not possible to determine the amount of lost revenue. It is believed, however, that the actual number and amount will be relatively small compared to the total number and amount within the entire field.

The regulated entities are treatment facilities for those persons addicted to drugs and alcohol. The purpose of rehabilitation is to treat these individuals and allow them to re-enter mainstream society. This must be done in as a humane way as possible. Thus, the ACA standards mentioned in a comment are not applicable. Many of these individuals are not associated with or involved in the criminal justice system in any way. They are working individuals who hold regular jobs. They deserve certain dignities despite their addictions, and using an ACA standard developed for application in correctional institutions is not appropriate. Second, measuring unencumbered space, pursuant to the ACA standard, would not provide for an efficient regulation. Each facility, depending upon the size of furniture, would have different standards and requirements. The result would be a regulatory nightmare. Instead of simply measuring wall to wall in over 900 facilities, the size of each

piece of furniture in each room, in addition to the size of each room, would have to be measured. These measurements would then have to be calculated to determine the unencumbered space for each room. This process is completely unsatisfactory for the types of facilities regulated here. Third, when calculated, 60 square feet for a single room, including a bed of approximately 20 square feet, a dresser of approximately 4 square feet, a desk or table of approximately 4 square feet, and a chair of approximately 3 square feet, would equal unencumbered space of approximately 29 square feet, which is only 4 square feet more space than the ACA standards.

Finally, the standards established in other states were reviewed in formulating this subsection. The standard for a majority of states is consistent with this regulation. The following are some examples: New Jersey requires 70 square feet of clear floor space for single occupancy and a minimum of 50 square feet of clear floor space per patient, with 3 feet of clear space between and at the foot of beds. Rhode Island requires 85 square feet for single occupancy and 60 square feet per person for multiple occupancy. Montana requires 100 square feet for single occupancy and 80 square feet per person with no more than 4 persons per room. New York requires 100 square feet exclusive of closet space for single occupancy and 80 square feet per person with a maximum of 4 persons per room, with an exception of 60 square feet per person for alcohol treatment of less than 5 days.

Subsection (c) is rewritten as suggested.

Subsection (d) is combined with subsection (b) as suggested.

No comment was received on subsections (e)-(h). They have been relettered (d)-(g). The former subsection (f), now subsection (e), has been rewritten for clarification.

Subsection (h) is new, based on suggestions from commentators.

Subsection (i) applies to bedrooms, not the entire facility.

Comments: Subsection (j) should more directly state its requirements, such as “Bedrooms located in a basement shall meet the following requirements:....”

Paragraph (1) uses the vague term “appropriate.” The Department should delete this term.

Paragraph (3) requires two basement exits “each located reasonably remote from the other in a manner to reduce the possibility that both will be blocked in an emergency situation.” It is unclear how a facility would comply with this phrase. The Department should amend this language to more clearly state its intent.

Response: This subsection has been rewritten as recommended.

Other change: The Department added subsection (h) (relating to bedroom windows) based on a recommendation that these regulations be consistent with 55 Pa. Code §3800.1 et seq. (relating to child residential and day treatment facility regulations). Facilities licensed prior to the effective date of these regulations shall be exempt from this provision.

Sections 705.6 and 705.24. Bathrooms.

These sections provide standards for bathrooms in residential and nonresidential facilities.

Comment: In §705.6 (3) the Department should delete “adequate” and “to meet the needs of the residents” or provide a more definitive standard.

Response: The Department agrees with this comment and has amended this paragraph. This section also now sets a measurable standard for the temperature of hot water.

Comment: In §705.6 there is no mention of toiletry items and non-slip surfaces.

Response: The Department agrees with this comment and has added a provision regarding slip-resistant surfaces for bathtubs and showers in paragraph (4).

Comments: Section 705.24 (1) requires bathrooms to be “conveniently located throughout the facility.” It is unclear what the phrase “conveniently located throughout the facility” means. The Department should amend this language to state a more definitive standard.

Section 705.24 (1) uses the term “lavatories.” Paragraph (3) uses the phrase “toilet and washrooms.” For consistency, the Department should use the term “bathrooms” in those paragraphs.

Response: The Department agrees with these comments. The vague unclear language has been deleted and the words and phrases have been changed to be consistent throughout. This section also now sets a measurable standard for the temperature of hot water.

Sections 705.7 and 705.25. Kitchens.

These sections provide for health and safety standards in kitchens for all facilities.

Comment: The term “adequate” in paragraph (1) is vague and should be deleted.

Response: The Department agrees with this comment and has revised the paragraph accordingly.

Comment: “Food preparation areas” should be added to paragraph (3).

Response: The Department agrees and has added the language.

Comment: “Cleanable” should be deleted from paragraph (4).

Response: The Department agrees and has deleted the word.

Comment: The term “properly” in paragraph (5) is vague. Similar requirements in the Department of Public Welfare’s Child Residential and Day Treatment Facilities regulations (55 Pa. Code §3800.104(e)) specify that cold food must be stored at or below 40 degrees Fahrenheit, hot food at or above 140 degrees Fahrenheit, and frozen foods at or below 0 degrees Fahrenheit. The Department should consider including specific temperature storage requirements in the final regulation.

Response: The Department agrees with this comment and has adopted those standards.

Other change: The Department deleted the words “and dining” from paragraph (7) because this section relates to kitchen areas only and not dining areas.

Sections 705.8 and 705.26. Heating and cooling.

These sections deal with temperature standards in all facilities.

Comments: As written, paragraph (1) would require all facilities to have air conditioning to maintain an indoor temperature of no more than 90 degrees.

Do all facilities have air conditioning and is the use of fans excluded? The Department should allow for fans or explain the need for this requirement.

Response: The Department agrees with these comments. The language has been revised to require some type of mechanical ventilation whenever the indoor temperature exceeds 90 degrees.

Comment: Paragraph (2) appears to apply to portable (non-kerosene) electric heaters that have already received approval by Federal regulators concerning their safety. Facilities in older buildings, where heating is generally adequate, still may have certain areas that require supplemental heaters to ensure appropriate temperatures are consistently maintained, especially on very cold or windy days. The requirement to ensure that supplemental heating devices are permanently mounted could cause facilities to incur great expense. Also, in some cases, they are prohibited by landlords.

Response: The Department understands these concerns. Nevertheless, it is of great concern to the Department that portable, unsecured heating devices pose a very high risk of fire. Protecting the health and safety of patients and staff outweighs permitting such devices. Furthermore, this provision is consistent with 55 Pa. Code Section 3800 (relating to residential and day treatment facilities).

Finally, these facilities are licensed only by State authority. There is no Federal regulation of drug and alcohol treatment facilities. Therefore, it is unclear what the commentator means when it states that “Federal regulators” have approved these devices for

use in licensed facilities. That a particular device has received some type of “safety” approval by a Federal agency is irrelevant for the purposes herein.

Sections 705.9 and 705.27. General safety and emergency procedures.

These sections deal with general safety and emergency procedures.

Comments: Paragraph (4) requires each facility to “provide written procedures for staff and residents to follow in case of an internal or external emergency or disaster.” The difference between an “emergency” and a “disaster” is unclear. Furthermore, paragraph (4) refers to “emergencies” and paragraph (5) refers to “fire, or other disaster situations.” If there is a distinction between an “emergency” and a “disaster,” the Department should define these terms in section 701.1 (relating to general definitions). If there is no distinction, the Department should use a single term consistently.

Paragraph (4) requires the written procedures to be developed with assistance from “qualified fire and safety personnel.” To improve clarity, the Department should specify the credentials necessary to be considered “qualified fire and safety personnel.” The Department should clarify who reviews the procedures and when the review is conducted.

Paragraph (4)(ii) is lengthy and unclear. The requirements should be listed separately. Also, transfer and evacuation procedures should address situations where the residents are impaired by drugs or alcohol.

The regulatory meaning of “internal or external” emergency is the same and these words should be deleted.

Response: The Department agrees with these comments. Paragraph (4) has been rewritten as suggested to enhance clarity and eliminate vagueness.

Comment: In paragraph (5), all reportable incidents should fall into this category to make it more comprehensive and global.

Response: This is the only mandatory reportable incident provision. At some time in the future, the Department may amend the general licensure requirements to include a reportable incidents section and move the requirements of paragraph (5) to that section. The Department has not amended this paragraph based upon the comment.

Sections 705.10 and 705.28. Fire safety.

These sections deal with fire safety.

Comments: Subsection (a)(1)(ii) requires facilities to maintain two exits on every floor. Each exit is to be “remote enough form the other to reasonably ensure that both will not be blocked in an emergency situation.” If the intent of subsection (a)(1)(ii) is to prevent everyone from crowding one exit in an emergency, the Department could specify the number

of exits required in relation to the number of occupants per floor in residential facilities. The Department could also specify the minimum distance required between exits. Finally, the phrase “reasonably ensure” is vague and should be deleted.

In §705.10 (a)(1)(iii) and §705.28 (a)(1)(iv) the term “guards” is vague. The Department should define this term or use another term that more clearly indicates what is required on stairs, ramps, balconies and landings.

Response: The Department agrees with these comments. These subparagraphs have been rewritten and §§705.10 (a)(1)(iv) and 705.28 (a)(1)(v) have been deleted, as appropriate, to provide clarity.

Comments: Subsection (b) requires the facility to “maintain” smoke detectors and fire alarms, but does not state how quickly a malfunctioning alarm must be repaired. Section 3800.130(g) (relating to smoke detectors and fire alarms) of DPW’s regulations require repairs to be made within 48 hours of when the smoke detector or fire alarm is discovered to be inoperable. Subsection (b) should specify that if the smoke detectors or fire alarms are inoperable, repairs must be completed within a specific timeframe.

Refer to 55 Pa. Code §§3800.130(b), (f) and (g).

Response: The Department agrees with these comments and has amended the subsection to be consistent with the above-referenced provisions.

Comments: Subsection (c)(4) requires facilities to instruct all staff and residents in the use of fire extinguishers. The primary responsibility of a resident in the case of a fire is to sound the alarm and then to get out. Instructing a resident in the use of a fire extinguisher implicitly requires a resident to use a fire extinguisher and may place the resident at risk. The Department should reconsider the requirement for residents to be instructed in the use of fire extinguishers.

This subsection should specify that if the fire extinguisher is inoperable, repairs must be completed within a specific timeframe.

Response: The Department agrees with these comments and has revised this subsection accordingly.

Comments: Fire drills should be conducted quarterly or semiannually.

Subsection (d)(1) requires a fire drill to be conducted every 60 days. Since the duration of treatment for some residents and clients of nonresidential facilities may be less than 60 days, the Department should consider more frequent fire drills. Alternatively, the Department could require individual fire drill instruction for new residents. The Department should also define “special incidents.”

Subsection (d)(2) requires fire drills to be conducted at different times of the day and night. However, the regulation does not specifically require any drills to be conducted during

sleeping hours. The Department should consider periodically requiring fire drills during sleeping hours.

Subsection (d)(3) requires that personnel on all shifts be “trained to perform assigned tasks during emergencies.” The Department should clarify what is included in the training and when the training must occur.

Refer to 55 Pa. Code section 3800.132 (relating to fire drills).

Response: The Department agrees with these comments regarding monthly fire drills. It has adopted appropriate language.

Sections 705.11 and 705.29. Child care.

These sections establish safety provisions for child care in all facilities.

Comment: Paragraph (1)(ii) requires access to “suitable recreational equipment.” The term “suitable” is vague and should be deleted or replaced with more specific requirements.

Response: The Department agrees and has deleted the word “suitable.”

Comments: Rather than security screens, would safety locks suffice in certain circumstances?

Paragraph (2)(ii) requires safety screens for all windows. This requirement appears to be unnecessary for windows that do not open. The Department should revise this requirement to apply to all operable windows.

Paragraph (2)(iii) requires protective caps for each electrical outlet within reach of small children. How is “small” defined? Basically, a child can reach all outlets. Because of the ambiguity of the language, the Department should delete the phrase “within reach of small children” from these paragraphs.

Paragraph (2)(iv) requires facilities to secure storage areas where “potentially dangerous” substances are kept. The Department should delete the phrase “potentially dangerous” or define it so that it can be clearly understood and enforced.

Response: The Department agrees with these comments and has reworded these paragraphs accordingly.

REPEALED SECTIONS

The Department is repealing the various sections relating to physical plant regulations scattered throughout Title 28 Part V. The physical plant sections which are repealed are those in Chapter 709, Subchapter C (relating to general standards for free standing treatment activities) and Subchapter G (relating to standards for inpatient nonhospital activities – transportation living facilities (TLFs)), Chapter 711, Subchapter C (relating to standards for intake, evaluation and referral activities), Subchapter D (relating to standards for inpatient

nonhospital activities - residential treatment and rehabilitation), Subchapter E (relating to standards for inpatient nonhospital activities - short-term detoxification), Subchapter F (relating to standards for inpatient nonhospital activities - transitional living facilities (TLFs)) and Subchapter G (relating to standards for partial hospitalization activities) and Chapter 713, Subchapter C (relating to general standards for prevention and intervention activities).

FISCAL IMPACT

There will be some fiscal impact on the drug and alcohol treatment facilities. There most likely will be some facilities that will be required to reduce the number of currently occupied beds. It is believed, however, that those cases will be minimal. The majority of licensed facilities (638 outpatient) will not be affected at all by the regulation relative to sleeping accommodations. No comment was received from any residential transitional living facility. Therefore, it is believed that these facilities will not be affected. No comment was received from any residential inpatient hospital facility. Therefore, it is believed that none of these facilities will be affected.

Since some beds in a few facilities might be eliminated, it is possible that some individuals may have to wait a little longer to receive treatment. Also, some reduction in revenue may occur. However, it is believed that this result will be minimal when compared to the entire treatment field. Further, it is believed that the benefit to the patient in terms of a reduction in overcrowding and the receipt of better overall treatment and rehabilitation will far outweigh the costs.

Finally, if any facility finds that it must reduce a large number of beds, the facility was vastly overcrowded to begin with and this confirms the need for these important health and safety regulations. Facilities that may be forced to reduce a small number of beds will most likely be able to absorb such costs.

Aside from the issue of loss of revenue due to a decreased number of beds, raised by a few commentators, the remainder of the regulations received little or no comment, indicating that the vast majority of facilities believe that the regulations are appropriate and are already in compliance with them or consider compliance to be achievable at little additional cost.

These regulations will have minimal fiscal impact on the Department. At most, Department staff might be required to spend additional time at each facility. Field representatives inspected physical plant under the previous regulations. The general scope of the inspection, though for the most part not enforceable under the previous regulations, included most of what is now regulated. Where staff could previously only make suggestions to facilities on how to improve health and safety, they can now enforce regulations to make real and substantive health and safety improvements. The net increase in Commonwealth costs in terms of staff inspection time, however, will be negligible.

PAPERWORK REQUIREMENTS

A system for inspection of facilities is currently in place. It is anticipated that new inspection forms will be created to replace current forms. The net increase in paperwork is expected to be minimal.

EFFECTIVE DATE/SUNSET DATE

The amendments will become effective upon publication in the *Pennsylvania Bulletin*. For currently licensed facilities, compliance with the amendments will be required within nine months after they become effective. For any facility that has applied for licensure but has not yet been licensed prior to the effective date of these amendments and for any facility that applies for licensure after the effective date of the amendments, compliance will be required as part of the licensure process. No sunset date has been established. The Department will review and monitor the effectiveness of these regulations on a continuing basis.

STATUTORY AUTHORITY

Statutory Authority for these regulations is found in Articles IX and X of the Public Welfare Code (62 P.S. §§901-1059) (relating to the licensure of facilities), which require regulations for adequate and proper provisions for (i) fire prevention, (ii) water supply and sewage disposal, (iii) sanitation, (iv) lighting and heating, (v) ventilation, (vi) safety, (vii) equipment, (viii) bed space, (ix) record keeping and (x) humane care, and which authorize

and empower the Department to adopt regulations establishing minimum standards for building, equipment, operation, care, program and services and for the issuance of licenses, 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 Number 4 of 1981 (71 P.S. §751-31) (relating to the transfer of the powers and duties of the Governor's 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 programs), which gives the Department the power to promulgate rules and regulations necessary to carry out the provisions of the act.

REGULATORY REVIEW

Under Section 5(a) of the Regulatory Review Act (71 P.S. §745.5(a)), on November 1, 1999, the Department submitted a copy of the proposed rulemaking published at 29 Pa. B. 5835 to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare for review and comment. In compliance with Section 5.1(a) of the Regulatory Review Act (71 P.S. §745.5(a)), the Department submitted a copy of the final-form regulation to IRRC and the Committees on August 24, 2001. In addition, the Department provided IRRC 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 is available to the public upon request.

On September 13, 2001, the Department requested that the regulations be tolled in accordance with Section 5.1(g)(1) of the Regulatory Review Act in order to consider revisions recommended by IRRC. IRRC did not object to tolling. The Department submitted the revised regulations to the Committees and to IRRC for their review on October 15, 2001.

These final-form regulations were (deemed) approved by the House Health and Human Services Committee and the Senate Public Health and Welfare Committee on _____. IRRC met on _____, and approved the regulations in accordance with Section 5.1(e) of the Regulatory Review Act. The Office of Attorney General approved the regulations on _____.

CONTACT PERSON

Questions regarding these final-form regulations may be submitted 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. Persons with disabilities may submit questions in alternative formats such as by audio tape or Braille. Speech or learning impaired persons may use V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 [TT]. Persons with

disabilities who would like to obtain this document in an alternative format (ie., large print, audio tape or Braille) may contact Mr. Hair so that necessary arrangements may be made.

FINDINGS

The Department finds:

1. Public notice of intention to adopt the regulations adopted by this order has been given under sections 201 and 202 of the Act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§1201 and 1202), and the regulations thereunder, 1 Pa. Code §§7.1 and 7.2.
2. A public comment period was provided as required by law.
3. The adoption of the final-form regulations is necessary and appropriate.

ORDER

The Department, acting under the authorizing statutes, orders that:

- (a) The regulations of the Department, 28 Pa. Code, Part V, are amended by amending §701.1; by adding §§705.1-705.11 and §§705.21-705.29; and by repealing §§709.27, 709.74, 711.45, 711.57, 711.67, 711.77, 711.88 and 713.27, as set forth in Annex A.
- (b) The Secretary of Health shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for approval as required by law.

- (c) The Secretary of Health shall submit this order, Annex A and a Regulatory Analysis Form to IRRC, the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare for their review and action as required by law.
- (d) The Secretary of Health shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.
- (e) This order shall take effect upon publication in the *Pennsylvania Bulletin*.
 - (1) For currently licensed facilities, compliance will be required within nine months after the amendments become effective.
 - (2) For any facility that applies for licensure after the amendments become effective, compliance will be required as part of the licensure process.
 - (3) For any facility that has applied for licensure before the amendments become effective but is not licensed until after the amendments become effective, compliance will be required as part of the licensure process.

No comment was received on subsections (e)-(h). They have been relettered (d)-(g).

The former subsection (f), now subsection (e), has been rewritten for clarification.

Subsection (h) is new, based on suggestions from commentators.

Subsection (i) applies to bedrooms, not the entire facility.

Comments: Subsection (j) should more directly state its requirements, such as “Bedrooms located in a basement shall meet the following requirements:....”

Paragraph (1) uses the vague term “appropriate.” The Department should delete this term.

Paragraph (3) requires two basement exits “each located reasonably remote from the other in a manner to reduce the possibility that both will be blocked in an emergency situation.” It is unclear how a facility would comply with this phrase. The Department should amend this language to more clearly state its intent.

Response: This subsection has been rewritten as recommended.

Other change: The Department added subsection (h) (relating to bedroom windows) based on a recommendation that these regulations be consistent with 55 Pa. Code §3800.1 et seq. (relating to child residential and day treatment facility regulations). ~~Facilities licensed prior to the effective date of these regulations shall be exempt from this provision.~~

of exits required in relation to the number of occupants per floor in residential facilities. The Department could also specify the minimum distance required between exits. Finally, the phrase “reasonably ensure” is vague and should be deleted.

In §705.10 (a)(1)(iii) and §705.28 (a)(1)(iv) the term “guards” is vague. The Department should define this term or use another term that more clearly indicates what is required on stairs, ramps, balconies and landings.

Response: The Department agrees with these comments. These subparagraphs have been rewritten and §§705.10 (a)(1)(iv) and 705.28 (a)(1)(v) have been deleted, as appropriate, to provide clarity.

Comments: Subsection (b) requires the facility to “maintain” smoke detectors and fire alarms, but does not state how quickly a malfunctioning alarm must be repaired. Section 3800.130(g) (relating to smoke detectors and fire alarms) of DPW’s regulations require repairs to be made within 48 hours of when the smoke detector or fire alarm is discovered to be inoperable. Subsection (b) should specify that if the smoke detectors or fire alarms are inoperable, repairs must be completed within a specific timeframe.

Refer to 55 Pa. Code §§3800.130(b), (f) and (g).

Response: The Department agrees with these comments and has amended the subsection to be consistent with the above-referenced provisions.

Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy is available to the public upon request.

On September 13, 2001, the Department requested that the regulations be tolled in accordance with Section 5.1(g)(1) of the Regulatory Review Act in order to consider revisions recommended by IRRC. IRRC did not object to tolling. The Department submitted the revised regulations to the Committees and to IRRC for their review on October 15, 2001.

These final-form regulations were (deemed) approved by the House Health and Human Services Committee and the Senate Public Health and Welfare Committee on _____ . IRRC met on _____ , and approved the regulations in accordance with Section 5.1(e) of the Regulatory Review Act. The Office of Attorney General approved the regulations on _____ .

CONTACT PERSON

Questions regarding these final-form regulations may be submitted 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. Persons with disabilities may submit questions in alternative formats such as by audio tape or Braille. Speech or learning impaired persons may use V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 [TT]. Persons with

(2) HAVE A CERTIFICATE OF OCCUPANCY FROM THE DEPARTMENT OF LABOR AND INDUSTRY OR ITS LOCAL EQUIVALENT.

~~(a) (3) The residential facility shall comply~~ **COMPLY** with 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) (4) A residential facility licensed prior to _____ is exempt~~ **BE EXEMPT** from §705.5(c), ~~(e) and (f) (D), (E) and (H)~~ **(relating to sleeping accommodations) IF LICENSED PRIOR TO (the effective date of Chapter).**

§705.2. Building exterior and grounds.

The residential facility shall:

- (1) Maintain all structures, fences and playground equipment, when 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 **CLEAN, SAFE, SANITARY AND IN GOOD REPAIR AT ALL TIMES FOR THE SAFETY AND WELL-BEING OF RESIDENTS, EMPLOYEEES AND VISITORS. THE EXTERIOR OF THE BUILDING AND THE BUILDING GROUNDS OR YARD SHALL BE FREE OF HAZARDS.**
- (3) Keep exterior exits, stairs and walkways lighted at night.
- (4) Store securely all TRASH, garbage and rubbish in noncombustible, covered containers THAT PREVENT THE PENETRATION OF INSECTS AND RODENTS, and remove it on a regular basis, at least once every week.

§705.3. Living rooms and lounges.

The residential facility shall:~~(1) Contain~~ **CONTAIN** at least one ~~appropriately furnished living room or lounge which creates a relaxed and comfortable atmosphere for the free and~~

- (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 **BATHROOMS TO ACCOMMODATE STAFF, RESIDENTS AND OTHER USERS OF THE FACILITY.**
- (2) Provide A SINK, a wall mirror, a AN OPERABLE 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. **HAVE HOT AND COLD WATER UNDER PRESSURE. HOT WATER TEMPERATURE MAY NOT EXCEED 120° F.**
- (4) Provide privacy in toilets by doors, and in showers and bathtubs by partitions, doors or curtains. **THERE SHALL BE SLIP-RESISTANT SURFACES IN ALL BATHTUBS AND SHOWERS.**
- (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 BATHROOM in a functional, clean and sanitary manner at all times.

§705.7. Kitchens.

The residential facility:

- (1) Shall have at least one A kitchen with a refrigerator, a sink, a stove, an oven, and adequate cabinet space for storage needs.

- (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. (i) These procedures shall be developed with the assistance of qualified fire and safety personnel. (ii) Procedures shall also WHICH SHALL include provisions for:
 - (I) the THE EVACUATION AND 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.
 - (II) ASSIGNMENTS of staff during emergencies.
 - (III) THE EVACUATION AND TRANSFER OF RESIDENTS IMPAIRED BY ALCOHOL OR OTHER DRUGS.
- (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
A MINIMUM OF TWO EXITS ON EVERY FLOOR, INCLUDING THE BASEMENT, THAT ARE SEPARATED BY A MINIMUM DISTANCE OF 15 FEET.
 - (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. **MAINTAIN EACH RAMP, INTERIOR STAIRWAY AND OUTSIDE STEPS EXCEEDING TWO STEPS WITH A WELL-SECURED HANDRAIL AND MAINTAIN EACH PORCH THAT HAS OVER AN 18 INCH DROP WITH A WELL-SECURED RAILING.**

~~(iv)~~ Provide a hand railing on each stairway.

~~(v)~~(IV) Clearly indicate exits by the use of signs.

~~(vi)~~(V) 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 OPERABLE, automatic smoke detector on each floor, including the basement and attic.

(2) On floors with resident bedrooms, maintain a smoke detection device DETECTOR which shall be located outside the bedrooms WITHIN 15 FEET OF EACH BEDROOM DOOR. 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) **REPAIR INOPERABLE SMOKE DETECTORS OR FIRE ALARMS WITHIN 48 HOURS OF THE TIME THE DETECTOR OR ALARM IS FOUND TO BE INOPERATIVE.**

~~(3)~~ (4) Maintain a manual fire alarm system that is audible throughout the facility in a residential facility where four or more residents reside.

~~(4)~~(5) Maintain automatic smoke detectors and fire alarms of a type approved by the Department of Labor and Industry or by the Underwriters Laboratories.

(6) **MAINTAIN ALL SMOKE DETECTORS AND FIRE ALARMS SO THAT EACH PERSON WITH A HEARING IMPAIRMENT WILL BE ALERTED IN THE EVENT OF A FIRE, IF ONE OR MORE RESIDENTS OR STAFF PERSONS ARE NOT ABLE TO HEAR THE SMOKE DETECTOR OR FIRE ALARM SYSTEM.**

(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.

- (i) This fire extinguisher shall meet the requirement of paragraph (1), for at least one portable fire extinguisher for a 2,000 square foot area.
 - (ii) A residential facility shall place the fire THE extinguisher in the kitchen area 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. IF A FIRE EXTINGUISHER IS FOUND TO BE INOPERABLE, IT SHALL BE REPLACED OR REPAIRED WITHIN 48 HOURS OF THE TIME IT WAS FOUND TO BE INOPERABLE.
 - (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. UNANNOUNCED FIRE DRILLS AT LEAST ONCE A MONTH.
 - (2) Conduct fire drills at different times of the day and night. Hypothetical locations of the fire shall be different for each drill. DURING NORMAL STAFFING CONDITIONS.
 - (3) Ensure that all personnel on all shifts are trained to perform assigned tasks during emergencies.
 - (4) **MAINTAIN A WRITTEN FIRE DRILL RECORD INCLUDING THE DATE, TIME, THE AMOUNT OF TIME IT TOOK FOR EVACUATION, THE EXIT ROUTE USED, THE NUMBER OF PERSONS IN THE FACILITY AT THE TIME OF THE DRILL, PROBLEMS ENCOUNTERED AND WHETHER THE FIRE ALARM OR SMOKE DETECTOR WAS OPERATIVE.**
 - (5) **CONDUCT A FIRE DRILL DURING SLEEPING HOURS AT LEAST EVERY 6 MONTHS.**
 - (6) **PREPARE ALTERNATE EXIT ROUTES TO BE USED DURING**

FIRE DRILLS.

- (7) **CONDUCT FIRE DRILLS ON DIFFERENT DAYS OF THE WEEK, AT DIFFERENT TIMES OF THE DAY AND NIGHT AND ON DIFFERENT STAFFING SHIFTS.**
- (8) **SET OFF A FIRE ALARM OR SMOKE DETECTOR DURING EACH FIRE DRILL.**
- (9) **PROHIBIT THE USE OF ELEVATORS DURING A FIRE DRILL OR A FIRE.**

§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~~ FROM 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 OR SAFETY LOCKS for all OPERABLE windows.
 - (iii) Maintain protective caps over each electrical outlet ~~within reach of small children.~~
 - (iv) Secure all ~~storage areas where potentially dangerous~~ HAZARDOUS AND POISONOUS substances ~~are kept~~ AND MATERIALS with safety latches or locks.

permanently mounted or installed.

§705.27. General safety and emergency procedures.

The nonresidential facility shall:

- (1) Be free of rodent and insect infestation.
- (2) Require that pets which are housed in a nonresidential 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. (i) These procedures shall be developed with the assistance of qualified fire and safety personnel. (ii) Procedures shall also WHICH SHALL include provisions for:
 - (I) the THE evacuation of buildings or for the transfer of clients AND TRANSFER OF CLIENTS and staff to a safe location within the building, and for assignments.
 - (II) ASSIGNMENTS of staff during emergencies.
- (5) Notify the Division of Drug and Alcohol Program Licensure DEPARTMENT within 48 hours of a fire, other disaster or situation which affects the continuation of services.

§705.28. Fire safety.

(a) Exits.

- (1) The nonresidential facility shall:
 - (i) Ensure that stairways, hallways and exits from rooms and from the nonresidential 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 A MINIMUM OF TWO EXITS ON EVERY FLOOR, INCLUDING THE BASEMENT, THAT ARE SEPARATED BY A MINIMUM DISTANCE OF 15 FEET.

~~(iii)~~ Clearly indicate exits by the use of signs.

~~(iv)~~ **(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. MAINTAIN EACH RAMP, INTERIOR STAIRWAY AND OUTSIDE STEPS EXCEEDING TWO STEPS WITH A WELL-SECURED HANDRAIL AND MAINTAIN EACH PORCH THAT HAS OVER AN 18 INCH DROP WITH A WELL-SECURED RAILING.**

~~(v)~~ Provide a hand railing for each stairway.

(IV) CLEARLY INDICATE EXITS BY THE USE OF SIGNS.

~~(vi)~~ **(V) 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 nonresidential facility shall:

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

(2) Place the smoke detection device DETECTOR in a common area or hallway. ~~Detection-~~ALL DETECTION devices shall be interconnected.

(3) REPAIR INOPERABLE SMOKE DETECTORS OR FIRE ALARMS WITHIN 48 HOURS OF THE TIME THE DETECTOR OR ALARM IS FOUND TO BE INOPERATIVE.

(4) MAINTAIN A MANUAL FIRE ALARM SYSTEM THAT IS AUDIBLE THROUGHOUT THE FACILITY.

~~(3)~~ (5) 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 nonresidential 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.
 - (i) This fire extinguisher SHALL meet the requirements of one portable fire extinguisher for a 2,000 square foot area.
 - (ii) 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. IF A FIRE EXTINGUISHER IS FOUND TO BE INOPERABLE, IT SHALL BE REPLACED OR REPAIRED WITHIN 48 HOURS OF THE TIME IT WAS FOUND TO BE INOPERABLE.
- (4) Instruct the staff in the use of the fire extinguisher upon staff employment. This instruction shall be documented by the facility.

(d) Fire drills. The nonresidential 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 UNANNOUNCED FIRE DRILLS AT LEAST ONCE A MONTH.
- (2) Conduct fire drills at different times of the day and night. Hypothetical locations of the fire shall be different for each drill DURING NORMAL STAFFING CONDITIONS.
- (3) Ensure that all personnel on all shifts are trained to perform assigned tasks during emergencies.
- (4) **MAINTAIN A WRITTEN FIRE DRILL RECORD INCLUDING THE DATE, ITEM, THE AMOUNT OF TIME IT TOOK FOR EVACUATION, THE EXIT ROUTE USED, THE NUMBER OF PERSONS IN THE FACILITY AT THE TIME OF THE DRILL, PROBLEMS ENCOUNTERED AND WHETHER THE FIRE ALARM OR SMOKE DETECTOR WAS OPERATIVE.**
- (5) **PREPARE ALTERNATE EXIT ROUTES TO BE USED DURING**

FIRE DRILLS.

- (6) **CONDUCT FIRE DRILLS ON DIFFERENT DAYS OF THE WEEK, AT DIFFERENT TIMES OF THE DAY AND ON DIFFERENT STAFFING SHIFTS.**
- (7) **SET OFF A FIRE ALARM OR SMOKE DETECTOR DURING EACH FIRE DRILL.**
- (8) **PROHIBIT THE USE OF ELEVATORS DURING A FIRE DRILL OR A FIRE.**

§705.29. Child care.

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

- (1) Building exterior and grounds. The nonresidential facility shall:
 - (i) Fence off or have natural barriers to protect children ~~for~~ FROM 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 nonresidential facility shall:
 - (i) Provide an interior play area which meets the developmental and recreational needs of the children in care.
 - (ii) Maintain security screens OR SAFETY LOCKS for all OPERABLE windows.
 - (iii) Maintain protective caps over each electrical outlet ~~within reach of small children.~~
 - (iv) Secure all ~~storage areas where any potentially dangerous~~ HAZARDOUS AND POISONOUS ~~substances are kept~~ AND MATERIALS with safety latches or locks.

* * *

Chapter 709. STANDARDS FOR LICENSURE OF FREESTANDING TREATMENT FACILITIES.

Commonwealth of Pennsylvania



DEPARTMENT OF HEALTH

HARRISBURG

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

October 15, 2001

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

Re: Department of Health Final Regulation No. 10-154
Drug and Alcohol Facilities and Services

Dear Mr. Nyce:

Enclosed is a copy of revision to the tolled final form regulations for review pursuant to the Regulatory Review Act (Act) (71 P.S. §§745.1-745.15). Section 5.1(g)(1) of the Act provides that an agency may, unless the Independent Regulatory Review Commission (IRRC) objects, toll the time for the Standing Committees' or IRRC's review of final-form regulations in order to allow the agency time to consider revisions to the final-form regulations recommended by the Committees or IRRC. If the agency chooses to make revisions, the agency must submit those revisions within 30 days of the date of tolling or notify the Committees and IRRC that it will not submit revisions, or the final-form will be deemed withdrawn.

The Department tolled the regulations on September 13, 2001, during the review period of IRCC, in order to consider revisions recommended by IRRC. IRRC did not object to tolling. The Department is now submitting revisions to the Committees and to IRRC for review. For your convenience, we are submitting the pages of the preamble and regulations that contain revisions with those revisions highlighted, in addition to the entire revised text of the preamble and regulations.

Section 5.1(g)(3) provides that the Committees shall have the remainder of their 20 day review period or 10 days from the date of receipt of the revised final-form regulations, whichever is longer. Section 5.1(g)(3) also provides that IRRC shall have 10 days after the expiration of the Committee review period or until its next regularly

scheduled meeting, whichever is longer, to review the final-form regulation with revisions.

The Department will provide your Commission with any assistance you require to facilitate your review of the regulations.

Sincerely,

A handwritten signature in black ink that reads "Robert S. Zimmerman, Jr." The signature is written in a cursive style with a large, prominent initial "R".

Robert S. Zimmerman, Jr.
Secretary of Health

Enclosures

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

I.D. NUMBER: 10-154
 SUBJECT: Drug and Alcohol Facilities & Services
 AGENCY: Department of Health

TYPE OF REGULATION

- 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

RECEIVED
 2001 OCT 15 PM 3:00
 INDEPENDENT REGULATORY REVIEW COMMISSION

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
10/15/01	<u>L. Burrus</u>	HOUSE COMMITTEE ON HEALTH & HUMAN SERVICES
10/15/01	<u>D. Pach</u>	
10/15	<u>Debbie Eaton</u>	SENATE COMMITTEE ON PUBLIC HEALTH & WELFARE
10/15	<u>L. Cohen</u>	
10/15/01	<u>D. Pagan</u>	INDEPENDENT REGULATORY REVIEW COMMISSION
_____	_____	ATTORNEY GENERAL
_____	_____	LEGISLATIVE REFERENCE BUREAU