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**DEPARTMENT OF HEALTH
REGULATION NO. 10-154 (IRRC #2075)**

**DRUG AND ALCOHOL FACILITIES AND SERVICES
RESPONSE TO QUESTIONS**

1. What is the total number of residential facilities licensed in Pennsylvania? What is the total number of occupants in those residential facilities in Pennsylvania? What is the total number of beds in those residential facilities in Pennsylvania?

Response:

As of October 5, 2001, there were 184 residential facilities licensed in Pennsylvania. This includes facilities licensed for inpatient non-hospital treatment and rehabilitation services and/or inpatient non-hospital detoxification services.

There are no data sets that reflect occupancy for all drug and alcohol residential facilities in Pennsylvania.

As of September 24, 2001, the total number of residential beds licensed is 6184, which represents the capacity of the residential treatment programs but does not account for client fluctuations and programs operating at less than 100% occupancy which constitutes most residential programs.

2. As amended, Section 705.5 (b) will require minimum square footage for sleeping accommodations, such as 70 square feet of floor space per resident. We need more detailed supporting information for the amendments:
 - Explain the need for the new square footage requirements.
 - How many beds will existing facilities lose? What is the related loss of revenue?
 - Explain how the need for the new square footage requirements outweighs negative effects, such as loss of beds and income.
 - Why is this requirement not included with the "grandfather" exemptions in Section 705.1 (c)?
 - Can an existing facility qualify for a waiver of the new square footage requirements in Section 705.5 (b)? Please explain.

Response:

There is a need for the square footage requirements since there is currently overcrowding in some facilities. This overcrowding presents a public health and safety issue as well as a privacy issue for the clients. Public health issues would include communicable diseases especially Tuberculosis. Safety issues such as free and clear egresses are critical should a fire or other incident occur which would require a partial or complete evacuation. Privacy not only contributes to the client's comfort but also helps to increase the retention of the client in treatment and is directly related to a successful treatment outcome. Space constraints

observed at facilities include: 12 inches between beds, beds blocking exits or pathways to exits.

As is reflected on the attached chart, 1% of the total 6,184 beds available could be lost.

Our research has shown that it is standard practice to provide guidelines for square footage in facilities. See the attached chart for other services in Pennsylvania and other states that already have square footage guidelines in place to ensure privacy and safety for clients served. The total bed loss is insignificant given statewide bed utilization of 80-85% and a total loss of 1%. Given the utilization rate, there should be minimal income loss.

Square footage is not included in the grandfathering because it would grandfather facilities with safety problems. Residential drug and alcohol facilities is a slow growth industry, therefore, the majority of residential facilities that we can expect to operate in Pennsylvania are already operating. During the last ten years, the number of residential treatment facilities has only increased by 15% or 26 total facilities.

Yes, an existing facility may qualify for a waiver. Several facilities have indicated that they are two to four feet short for a four-person room. As long as there was adequate egress room, exceptions would be considered. Facilities could request an exception to the regulation as noted in 28 PA Code, §701.11.

3. Providers have stated that the nature of the rehabilitation business results in a facility never achieving 100% occupancy during a given time period. How is the occupancy rate for a facility calculated? What is the occupancy rate for facilities in Pennsylvania? What is the typical length of time a patient stays in a residential facility?

Response:

This is partially true due to the imprecise timing of admissions and discharges. Capacity rates are determined by the facility, local ordinances (where applicable), and the licensing specialist judgment regarding reasonable space accommodations. Past surveys have indicated an 80-85% utilization rate statewide. Residential stays vary according to level of care. They range from approximately 10-30 days for short term, 60-90 days for halfway house and up to one year for long-term residential services.

4. Providers are indicating that a facility needs a high occupancy rate to keep a facility fiscally sound. A loss of 10% or 20% of beds that don't meet the new square footage requirements could put an entire facility out of business, particularly non-profit facilities. Thus, the loss would be 100% of the beds in that facility, not just 10% or 20% of the beds. Has the Department considered this in determining the impact of the regulation?

Response:

Yes, it is possible that a loss of 20% of beds could have a fiscal impact on a facility. However, if a facility is losing a significant number of beds, it may be an indication that severe overcrowding

exists especially given the reduced square footage requirement in the revised regulations. Even if a few programs lose all of their beds and close, the overall statewide impact would be minimal.

5. Explain the approval process for residential facilities. How many residential facilities has the Department licensed in the past year. Has the Department implemented the new square footage requirements in the approval process? If not, what will be the impact of this regulation on the recently approved facilities.

Response:

28 PA Code, §709.11 (a) requires that, persons, partnerships, corporations, or other legal entities intending to provide drug and alcohol treatment services apply for a license from the Department. During the past year, 11 new residential facilities have been licensed. Eleven applications were received this year for licensure as a residential treatment facility. Six of these have already completed the application process and have been licensed. While we have not implemented the new square footage requirements in the approval process due to the regulations not being final rulemaking, we have used them as a guide over the past year. When the regulations were published as proposed, we forwarded a copy of the proposed regulations to all currently licensed drug and alcohol facilities. We have also strongly advised new applicants to utilize the proposed square footage.

6. Can facilities request a waiver from the requirements in this regulation? For example, could a facility that utilizes a food service request a waiver from the kitchen requirements? Are there any areas where waivers will not be granted. Generally, how many requests for waivers does the Department get every year and how many of those are granted? What are the types of waivers typically granted and the types typically denied?

Response:

28 PA Code, §701.11 (a)-(d) addresses the exception process. A facility contracting for food services or utilizing a common kitchen could request a waiver from the kitchen requirements. These arrangements would be considered in compliance with the regulation.

Waivers may not be granted to standards and regulations which are mandated by state or federal statutes, or federal regulations which shall be met for certification of eligibility for federal funds. Examples of when waivers would not be issued are Certificate of Occupancy from Labor and Industry and staffing qualifications for key drug and alcohol facility staff.

In 2000, 15 requests for exceptions to the regulations were received. Eleven of these requests were denied. With the exception of one, all of the denied requests were related to regulations pertaining to staff qualifications for drug and alcohol facilities. Exceptions granted included ratio exception for a halfway house, annual audit, number of exits, and part-time status of a clinical supervisor. Thus far in 2001, eight exception requests have been received with two of the three denied pertaining to staff qualifications for drug and alcohol facilities. Of the exceptions granted, three pertained to annual audits, one to number of exits, and the other to a Certificate of Occupancy waiver for a facility located within a private residence. Generally, exceptions pertain

to annual fiscal audits, exception to Labor and Industry certificate when facility is operated out of a private residence or number of exits from a facility under 1200 square feet located on the first floor or in a one story building, and staffing qualifications.

CURRENT CENSUS AND ESTIMATED BED LOSS

FACILITY NAME	RESIDENTIAL CAPACITY*	NUMBER OF BEDS LOST	NEW REGULATION CAPACITY	CENSUS LAST SURVEY	NET LOSS FROM LAST SURVEY	CURRENT TELEPHONE CENSUS	NET LOSS FROM TELEPHONE CENSUS
Gaudenzia Crossroads	42	0	42	30	12	46	***
Gaudenzia - Dr. Snow	14	0	14	11	3	13	1
Samara House	12	5	7	8	(1)	12	(5)
Allentown Rescue Mission	24	0	24	10	14	12	12
Halfway House Lehigh	36	0	36	23	13	20	16
Harrisburg Teen Challenge	12	3	9	11	(2)	11	(2)
Teen Challenge Training Center**	80	17	63	60	3	66	(3)
Teen Challenge Induction Center	20	5	15	11	4	16	(1)
Bowling Green	76	0	76	72	4	72	4
Treatment Trends	85	24	61	69	(8)	77	(16)
Blue Mountain House of Hope	20	0	20	17	3	15	5
Gaudenzia West Chester	65	6	59	64	(5)	58	1
Gaudenzia Kindred House	17	2	15	15	0	15	0
Malvern Institute	69	0	69	36	33	40	29
Totals	572	62	510	437	73	473	41

* Includes detox and rehab beds

** This capacity was decreased in 2000 from 100 to 80 beds

*** Cannot exceed residential capacity

Of the total residential bed capacity of commentors (572 beds) using last survey estimates of census, the system will retain 73 beds in excess capacity. Even though 16 (less than 3%) occupied beds will be lost.

Of the total residential bed capacity of commentors (572 beds) using commentors estimates of census, the system will retain 41 beds in excess capacity even though 27 (less than 5%) occupied beds will be lost.

After implementation of the new regulations, the state total residential bed capacity (6,184 beds), will retain excess capacity and 1% of beds will be lost.

**PHYSICAL PLANT REGULATIONS
DRAFT**

STATE SQUARE FOOTAGE REGULATIONS

	Current	Original	Revised	3800	MR	PCBH	LTR	CRR
	DOH	DOH	DOH	DPW	DPW	DPW	DPW	DPW
Single	Surveyor Discretion	80	70	70	80	80	80	71***
Multiple*	Surveyor Discretion	60	50**	60	60	60	60	N/A

- * Per Person
- ** Assumes bunk beds
- *** Adjusted for encumbered

OTHER STATE SQUARE FOOTAGE REGULATIONS

	Current	Original	Revised					
	DOH	DOH	DOH	NJ	OH	NY	WV	RI
Single	Surveyor Discretion	80	70	70	80	100	80	85
Multiple*	Surveyor Discretion	60	50**	50	60	80	60	60



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WE ARE FAXING YOU 7 PAGES, INCLUDING THIS PAGE.
PLEASE DELIVER AS SOON AS POSSIBLE TO:

James Smith

IF YOU HAVE ANY QUESTIONS, PLEASE CALL

783-8665

DATE:

10/12/01

SENT BY:

John Har

MESSAGE:

James Attached are the responses to your questions.

FAX NUMBER 717-787-3188

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