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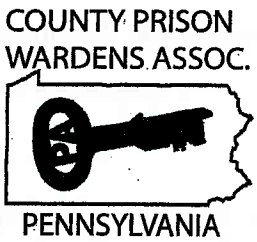


"We hold the keys to justice in Pennsylvania."

Pennsylvania County Prison Warden's Association

625 Franklin Farm Lane
Chambersburg, PA 17201-3091
Telephone: 717-264-9513

John E. Wetzel, President

July 21, 2006

Chairman Alvin C. Bush
Independent Regulatory Commission
333 Market St, 14th Floor
Harrisburg, PA 17101

David B. Farney, Assistant Counsel
PA Department of Corrections
Office of Chief Counsel
55 Utley Drive
Camp Hill, PA 17011

Dear Sirs:

The PA County Prison Warden's Association strongly opposes the Proposed Rulemaking of Chapter 95, Title 37 in its current form. We are formally requesting to be heard at a hearing on this matter.

As an organization that seeks to represent the interest of county jails in Pennsylvania, to respond to the proposed rulemaking in a manner that represents the positions of all would seem to be an impossible task. As they say, if you've been to one county in PA, you've been to one county in PA. Over the past weeks, I have heard from other jail administrators whose opinions range from the immediate adoption of this rulemaking, to the repeal of Title 37 in its entirety.

Furthermore, there are those out there who would use this fact to discourage any attempt to create a process that truly builds consensus and a cooperative venture between the state department of corrections and county entities. However, we strongly disagree. We suggest that the diversity of our state and the diversity of these opinions within the ranks of county correctional professionals across the state provide the perfect environment to effect lasting and meaningful change.

Even with the great divergence of opinion, there are several points that we can all agree upon. The first is that Title 37 does need to be updated. Next, standards are an important if not essential component of corrections. Third, there are more sections of this standard that we agree with than we disagree with, (although the sections of disagreement are major issues). Finally, the definitions section, as proposed, does not reflect accurate and modern definitions, and conversely is a combination of poorly defined terms and "definitions" that are actually standards. On the whole, these proposed standards are inadequate. The proposed rulemaking fails to acknowledge the power of prison boards as established in Title 61; this is a "fatal error" that must be addressed.

While you will be receiving comments from many of our members who have reviewed and documented specific areas of concerns, this correspondence will just highlight a couple of concerns.

There are sections, such as the Treatment Section, where the standards go beyond the realm of saying "what" to do, and cross in to telling administrators "how" to do it. This is unacceptable, and inappropriate for professional standards. By the same token, there are sections which were borrowed, in part, from the American Correctional Association's 4th Edition Performance Based Standards for Adult Local Detention Facilities (ALDF), that should be used in total, such as the Staffing section. The Staffing section also points out another theme, one of a consistent tone of mistrust or a "gotcha approach" often employed by the PA DOC Office of County Inspection. Below is the proposed language in Title 37 (in *italics)* and then the some section from the American Correctional Association's ALDF (in **bold**)

> *(ii) An initial staffing analysis shall be conducted to determine the staffing allotment and post assignments necessary to safely operate the prison. In determining the number of staff needed, relief factors are to be calculated for each classification of staff that is assigned to relieve posts or positions. Consideration must include, but not be limited to, annual leave, average sick leave usage, holidays, military leave, regular days off and training. The staffing analysis shall be reviewed and documented on an annual basis by the prison administrator. The results of this annual staffing analysis must serve as the required staffing allotment designated for the prison. Information on the number and type of positions filled and vacant shall be available at all times.*

4-ALDF-2A-14 (Ref. 3-ALDF-1C-03) A comprehensive staffing analysis is conducted annually. The staffing analysis is used to determine staffing needs and plans. Relief factors are calculated for each classification of staff that is assigned to relieved posts or positions. Essential posts and positions, as determined in the staffing plan, are consistently filled with qualified personnel.

Comment: **None.**
Protocols: **Written policy and procedure. Staffing analysis process and plan. Staff deployment plans and schedules.**
Process Indicators: **Documentation of annual review of staffing analysis and plan. Records of actual staff deployment. Facility logs.**

4-ALDF-2A-15 (Ref. 3-ALDF-1C-05) The facility uses a staffing analysis to determine the essential positions needed to perform the health services mission and provide the defined scope of services. A staffing plan is developed and implemented from this analysis. The plan is reviewed annually for adequacy by the health authority.

Comment: **Adequate staffing is based on variables such as, facility size and configuration, location, services provided, and inmate type.**
Protocols: **Written policy and procedure.**
Process Indicators: **Documentation of annual staffing plan review. Staffing analysis plan. Interviews.**

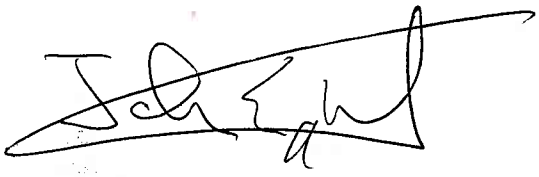
You will note that the very source of the language has been modified to reflect a completely different tone that removes discretion from the local jail administrator, and specifically dictates items that must be considered and who must review the plan. This is another common theme.

We implore you to consider the following proposal: 1). We request that you reject the Proposed Rulemaking of Chapter 95, Title 37. 2). A cooperative committee of the County Commissioners Association of Pennsylvania and the PA County Prison Warden's Association would apply for Technical Assistance through the National Institute of Corrections, Jails Division, to engage a facilitator, experienced in developing **jail** standards. 3). A committee would be established that represents the PA Department of Corrections, jails of all sizes and from all regions from across the state, and CCAP to develop standards that are more reflective of county jails.

Working together in a collaborative environment, we believe that we can produce standards that will be acceptable to the department and the counties' Prison Boards, and that will reflect a modern corrections environment.

Again, should there be a hearing, we would request that select members of our organization to be permitted to testify.

Sincerely yours,



John E. Wetzel, President

Pennsylvania County Prison Wardens Association