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

September 6, 2006

Honorable Estelle B. Richman, Secretary  
Department of Public Welfare  
333 Health and Welfare Building  
Harrisburg, PA 17120

Re: Regulation #14-504 (IRRC #2552)  
Department of Public Welfare  
Licensure/Approval Appeal Procedure

Dear Secretary Richman:

Enclosed are the Commission's comments for consideration when you prepare the final version of this regulation. These comments are not a formal approval or disapproval of the regulation. However, they specify the regulatory review criteria that have not been met.

The comments will be available on our website at [www.irrc.state.pa.us](http://www.irrc.state.pa.us). If you would like to discuss them, please contact me.

Sincerely,

Kim Kaufman  
Executive Director

wbg

Enclosure

cc: Honorable Jake Corman, Chairman, Senate Public Health and Welfare Committee  
Honorable Vincent J. Hughes, Minority Chairman, Senate Public Health and Welfare Committee  
Honorable George T. Kenney, Jr., Majority Chairman, House Health and Human Services Committee  
Honorable Frank L. Oliver, Democratic Chairman, House Health and Human Services Committee

# **Comments of the Independent Regulatory Review Commission**

**on**

## **Department of Public Welfare Regulation #14-504 (IRRC #2552)**

### **Licensure/Approval Appeal Procedure**

**September 6, 2006**

We submit for your consideration the following comments on the proposed rulemaking published in the July 8, 2006 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the Department of Public Welfare (Department) to respond to all comments received from us or any other source.

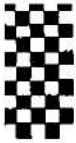
#### **1. General – Reasonableness; Need; Feasibility.**

DPW is replacing the uncodified Chapter 9003 administrative procedure regulations, relating to licensure and approval appeals filed by Department-certified facilities and agencies, with the General Rules of Administrative Practice and Procedure (GRAPP), 1 Pa. Code, Part II. We have several questions and recommendations. First, has the Department considered codifying Chapter 9003 with revisions determined to be appropriate? These procedures have been in place since 1977 and commentators and other interested parties appear to be very comfortable with them.

Second, several facilities commented that the ten-day appeal period allotted under the GRAPP is simply too short a timeframe for weighing the ramifications of an action taken by the Department and determining whether to appeal. We recommend that the Department consider preserving the 30-day appeal period currently allowed under Chapter 9003.

Third, we agree with the Pennsylvania Association of Resources for People with Mental Retardation (PAR), that there are many provisions in the GRAPP that may not be applicable to appeals filed by human resource programs. The Department should consider adopting only those provisions of the GRAPP that are directly pertinent to these appeals.

Finally, we also agree with PAR that Section 25.20 of the GRAPP appears to bypass the Bureau of Hearings and Appeals, as it provides that appeals of staff action be taken directly to the agency head. Is it the Department's intent that licensure and approval appeals be taken directly to the Secretary?



# Facsimile Cover Sheet

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INDEPENDENT REGULATORY REVIEW COMMISSION



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**To:** Ruth D. O'Brien, Senior Assistant Counsel  
Jennifer Whare, Assistant Counsel  
Lisa Benedetto, Secretary to Ms. O'Brien  
Stephanie Schubert

**Agency:** Department of Public Welfare  
**Phone:** 3-2201; 3-2800; 3-2201; 7-4063  
**Fax:** 2-0717  
**Date:** September 6, 2006  
**Pages:** 3

**Comments:** We are submitting the Independent Regulatory Review Commission's comments on the Department of Public Welfare's regulation #14-504 (IRRC #2552). Upon receipt, please sign below and return to me immediately at our fax number 783-2664. We have sent the original through interdepartmental mail. You should expect delivery in a few days. Thank you.

**Accepted by:** Lisa M. Benedetto **Date:** 9-6-06