

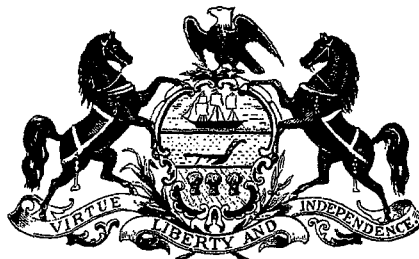
GEORGE KENNEY, MEMBER

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House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

#2654

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February 12, 2008

Calvin B. Johnson, M.D., M.P.H.
Secretary of Health
Commonwealth of Pennsylvania
Health and Welfare Building
Room 802
7th & Forster Streets
Harrisburg, PA 17120

Re: Department of Health – Proposed Regulations No. 10-186
4 Pa. Code Section 255.5(b)
Confidentiality of Patient Records and Information

Dear Secretary Johnson,

After reviewing a multitude of letters in opposition to the Department of Health's proposed regulations regarding confidentiality of drug and alcohol addiction treatment records and personal information, I am unacquainted with the initial motivation behind these regulations.

As Chairman of the House Health and Human Services Committee, I have not been made aware of any affirmative comments or rationale regarding these regulations and I am seeking information on their basis. As a perpetual proponent and advocate for drug and alcohol treatment and patient welfare, it is imperative to understand the need for the proposed regulations and to receive an explanation of why support for them is necessary.

Please provide me with information regarding this inquiry. The week of February 18, 2008, committee meetings are scheduled for discussion regarding the regulations and this information will be crucial in determining member's positions within the legislature. Please provide any information to my office before February 19, 2008. I look forward to hearing your comments.

Sincerely,

GEORGE T. KENNEY, JR.
Republican Chairman
House Health and Human Services Committee
170th Legislative District

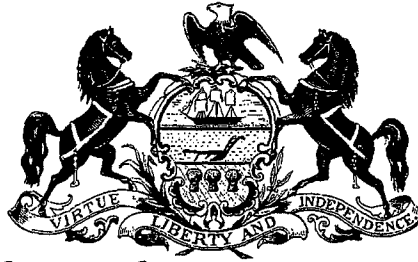
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February 12, 2008

Janice Staloski, Director
Bureau of Community Program Licensure and Certification
Pennsylvania Department of Health
132 Kline Plaza, Suite A
Harrisburg, PA 17104

Dear Ms. Staloski,

You have already received my letter of opposition to the Department of Health's proposed regulations (No. 10-186), that would weaken the protections and confidentiality of addiction treatment records.

In addition to that letter, I am writing to advise you that the proposed regulations also breach an agreement reached with the Department of Public Welfare and the Administration during the debate over welfare reform in 1996.

During this debate, I repeatedly alerted the Administration and the Department of our concerns about managed care and the provision of addiction treatment services.

Unfortunately, we were well aware of the detrimental impact of managed care on people seeking treatment for addictions through commercial insurance. At the time, despite the strong protections provided in the state law, managed care routinely denied treatment and violated the clear requirements of that law. We were acutely aware of instances of delays in treatment, jobs lost, crimes committed and some deaths. As a result, we were looking for a way to avert similar tragedies with the welfare population and insisted on several provisions as part of the final welfare proposal.

Most important in this discussion was the Department's agreement to utilize the Pennsylvania Client Placement Criteria (PCPC) as the definition of medical necessity for the assessment and placement of people in need of addiction treatment who are also welfare eligible. In fact, this agreement allowed us to move forward on the welfare reform bill without further amendments.

In the months that followed, I was pleased to see the Department and the Administration honor this commitment. As a direct result of this negotiation, the PCPC requirement appears in the DPW's "Program Standards and Requirements" for behavioral health contractors.

The careful assessment of level of care and length of stay provided through the PCPC is imperative and necessary to put a strong clinical leash on the tendency of managed care to under-treat and minimize the need for care and to avoid provision of residential treatment entirely – even for those coming out of prison.

This was an important and proper agreement between the Department and the Legislature that will now be breached by the proposed regulation in Section (c)(2)(ii) (A) – (G) and probably (c)(1) and (c)(2)(i) as well.

I urge the Department of Health to withdraw proposed regulation No. 10-186 regarding confidentiality of addiction treatment records.

Sincerely,



GEORGE T. KENNEY, JR.
Republican Chairman
House Health and Human Services Committee
170th Legislative District

GTK/nt
Enclosure

#2654



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF PUBLIC WELFARE

P.O. BOX 2875
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CHARLES G. CURIE
DEPUTY SECRETARY FOR MENTAL HEALTH

TELEPHONE NUMBER
AREA CODE (717) 767-6443

The Honorable George T. Kenney, Jr.
House of Representatives
Harrisburg, Pennsylvania 17120-3011

Dear Representative Kenney:

Within the Governor's recommended budget, 44.3 million dollars was set aside for drug and alcohol services within a Behavioral Health Initiative. Of this amount, 30.9 million dollars will continue to be targeted for non-hospital residential services. The commitment of these funds for this service at this level is contingent upon passage of the 1996-97 budget at the level recommended by the Governor for the Behavioral Health Initiative. The Department is categorizing these funds only for the 1996-97 Fiscal Year. We are viewing this year as a transitional year in two ways:

- 1) The Pennsylvania Client Placement Criteria for adults will be implemented concurrently with the Behavioral Health Initiative this Fiscal Year and will have had a one-year track record in order for any needed "fine-tuning" to take place.
- 2) A grievance process will also be implemented concurrently and again we will have one year of experience with that process to insure that clients treatment rights are protected.

Beginning next Fiscal Year, it is our plan that dollars within the Behavioral Health Initiative and other state dollars purchasing drug and alcohol services will allow counties the flexibility to purchase services across the full array available based upon client need as determined by the use of the client placement criteria.

If you have any questions regarding this decision, please do not hesitate to contact me.

Sincerely,

Charles G. Curie

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