

C-Log

4/26/08

OK,  
Loy to  
B. Ennis  
GAR  
C. Kopelman

**COMMITTEES**

EDUCATION, CHAIRMAN  
APPROPRIATIONS  
ENVIRONMENTAL RESOURCES AND ENERGY  
LAW AND JUSTICE  
TRANSPORTATION

STATE SYSTEM OF HIGHER EDUCATION  
BOARD OF GOVERNORS

STATE BOARD OF EDUCATION

EDUCATION COMMITTEE OF NCSL

EDUCATION COMMISSION OF THE STATES  
COMMISSIONER

E-MAIL: jrhoodes@pasen.gov

WEBSITE: www.senatorrhodes.com

RECEIVED

2008 JUL -7 AM 10:35

INDEPENDENT REGULATORY  
REVIEW COMMISSION

29TH DISTRICT  
JAMES J. RHOADES  
PLEASE REPLY TO:  
 SENATE BOX 203029  
362 MAIN CAPITOL  
HARRISBURG, PA 17120-3029  
717-787-2637 • FAX: 717-783-9149  
 ONE WEST CENTRE STREET  
P.O. BOX 150  
MAHANAY CITY, PA 17948  
370-773-0891 • FAX: 570-773-1675  
 61 NORTH THIRD STREET  
HAMBURG, PA 19526  
610-562-3411 • FAX: 610-562-6895  
TOLL FREE: 1-866-418-0367



**Senate of Pennsylvania**

June 23, 2008

Secretary Calvin Johnson, M.D.  
Department of Health  
Room 802, Health & Welfare Building  
Harrisburg, PA 17108

Dear Dr. Johnson:

We are writing to advise you of our strong opposition to the Department of Health's Proposed Regulation No. 10-186 which will weaken the confidentiality protections of drug and alcohol addiction treatment records. We urge you to withdraw the proposed regulation.

Over 130 groups and individuals have sent letters of opposition to your Department and to the Independent Regulatory Review Commission. In addition, the Independent Regulatory Review Commission's review specifies a number of regulatory concerns that have not been met including issues regarding statutory authority, consistency with the intent of the General Assembly, need for the regulation, protection of the public health, safety and welfare, need to properly estimate the economic impact on the regulated community and need for clarity and lack of ambiguity.

In addition, the three statewide drug and alcohol organizations representing the parties most directly affected by the proposal - the Pennsylvania Recovery Organizations-Alliance, the Pennsylvania Association of County Drug and Alcohol Administrators and the Drug and Alcohol Service Providers Organization of Pennsylvania - all oppose the proposed regulation. Please note that these are the very groups that represent the hands-on organizations we all count on to handle constituents and their families seeking help at the district level.

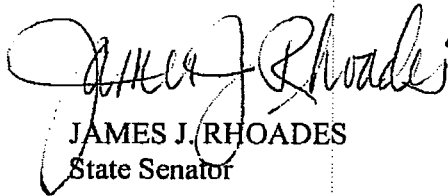
In the recent Departmental budget hearings, you stated that under the current confidentiality rules, payers are unable to get enough information to determine the need for treatment. Perhaps you are unaware that these information requirements regarding medical necessity have already been settled and defined as a matter of law, regulation and through a negotiated agreement with the General Assembly. Violations of these requirements should of course be reported to the Office of the Attorney General and we do not understand why this has not occurred as an obvious solution to the problem.

The General Assembly has already expressed its will quite clearly on this matter via enactment of Act 106 of 1989 regarding commercial group health plans and through legislative agreement with the Department of Public Welfare for public payers.

The requirements for medical necessity reflected in Act 106 of 1989 have been enforced by three consecutive Attorneys General and by a 7-0 ruling of the Commonwealth Court (2007). For public payers, medical necessity is governed by information specified in the Pennsylvania Client Placement Criteria. This criteria was adopted as a result of a legislative agreement memorialized in an Information Bulletin/Department of Health (1998) and in a Statement of Policy/Department of Public Welfare (1998). Utilization of the Pennsylvania Client Placement Criteria is now a requirement for all Health Choices contractors. (See Appendix T, Part C – Adult Client Placement Criteria).

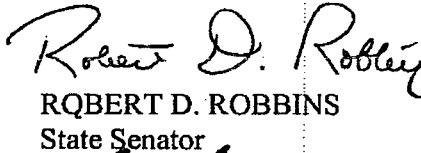
In closing, the confidentiality rules and information requirements are well established in law and regulation of the Commonwealth. The General Assembly has already spoken on this matter and we reserve this issue to our purview.

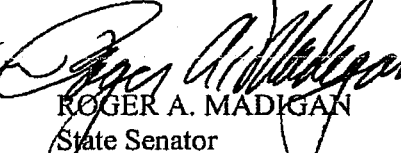
Sincerely,

  
JAMES J. RHOADES  
State Senator

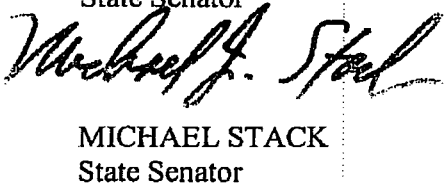
  
JOSEPH B. SCARNATI  
President Pro Tempore

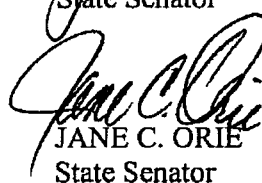
  
EDWIN B. ERICKSON  
State Senator

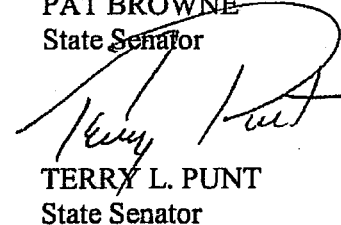
  
ROBERT D. ROBBINS  
State Senator

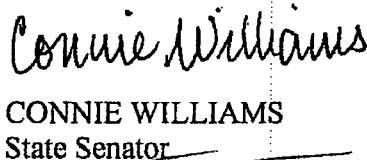
  
ROGER A. MADIGAN  
State Senator

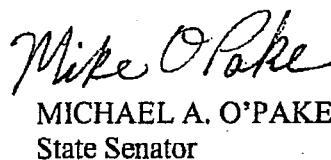
  
PAT BROWNE  
State Senator

  
MICHAEL STACK  
State Senator

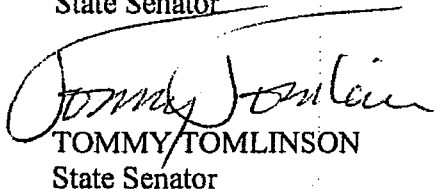
  
JANE C. ORIE  
State Senator

  
TERRY L. PUNT  
State Senator

  
CONNIE WILLIAMS  
State Senator

  
MICHAEL A. O'PAKE  
State Senator

  
LISA BOSCOLA  
State Senator

  
TOMMY TOMLINSON  
State Senator