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Senate of Pennsylvania

July 23, 2008

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

Transmitted via fax to 717-787-3188 and via regular mail

Dear Ms. Staloski:

I am writing to express my concern and opposition to the Department Health's Draft Final Rulemaking for Regulation 10-186 regarding confidentiality of drug and alcohol addiction treatment records and personal information. I communicated my concerns and opposition to the original proposed regulations on January 14, 2008. Unfortunately, my concerns and the concerns of many other people and organizations have not been addressed in the latest draft. The latest draft has generated additional concerns and would create additional problems.

After reviewing the latest version of the regulation, comments regarding the regulation, and other materials and background information, it is clear that the regulation does not protect patient privacy. Third party payers could gain access to private information that exceeds the information currently provided to payers under Act 106 of 1989 and the Pennsylvania Client Placement Criteria (PCPC). The protections under Act 106 of 1989 and PCPC have protected patient privacy and coordinated care for many years. It is unclear why a new regulation is necessary. Privacy is a key component of getting people into drug and alcohol treatment programs. Without privacy protections, individuals will be less inclined to seek treatment. This will harm all Pennsylvanians.

Proponents have claimed that greater information sharing would improve care for drug and alcohol treatment patients. Treatment professionals, single county authorities, and many others have countered that current laws already provide for treatment and care coordination of addiction and medical services. It appears redundant and unnecessary to adopt a privacy regulation for a system that is already working well. This position is shared by three statewide drug and alcohol organizations representing the parties most directly affected by the proposal including: the Pennsylvania Recovery Organizations-Alliance, the Pennsylvania Association of County Drug and Alcohol Administrators, and the Drug and Alcohol Service Providers Organization of Pennsylvania. These organizations oppose the proposed regulation.

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In addition to drug and alcohol provider field organizations, The Pennsylvania Advisory Council on Drug and Alcohol Abuse has rejected the proposed regulation three times. The Council is responsible for advising the Secretary of Health and the Department of Health regarding laws, regulations and administration of drug and alcohol treatment services and programs. They believe that this regulation is unnecessary and could harm patient privacy and patient care.

Other concerning aspects of this regulation include the use of oral consent for the disclosure of private records and definitions. Patients who are intoxicated cannot be expected to make an informed oral consent for the disclosure of records. Additionally, the regulation changes or creates new definitions for treatment, government official, third party payer, and medical personnel. When these definitions are reviewed separately or in conjunction with each other, they create a host of questions and potential problems, and could lead to the disclosure of private information to third party payers that is beyond the scope of Act 106, PCPC, and the intent of the regulation. These problems are addressed in a letter dated July 3, 2008, submitted by Gregory Heller

Over 160 individuals and groups have sent letters in opposition to the proposed regulation. The proposed regulation is a solution in search of a problem. It purports to help patients receive drug and alcohol treatment services and other care. However, the people and organizations that work in this field say that these issues are covered through existing laws, and this regulation is unnecessary. Due to the deficiencies and problems this regulation may cause, I oppose this regulation and urge its withdrawal.

Sincerely,



Senator Mike Stack
5th Senatorial District

MJS/mff

CC: Independent Regulatory Review Commission

The Honorable Edwin B. Erickson
The Honorable Vincent J. Hughes
The Honorable Frank L. Oliver
The Honorable George T. Kenney, Jr.