

GAUDENZIA, Inc. 106 West Main Street, Norristown, PA 19401 (610) 239-9600
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Robert P. Kelly
 Chairman of the Board

Michael Harle, M.H.S.
 President/Executive Director

A United Way Donor Option Agency

2654

Jan. 11, 2008

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

Dear Ms. Staloski;

Thank you for inviting comments on the proposed changes to the state confidentiality rule (4 PA Code § 255.5 (b)).

We are writing to **oppose** the changes on the basis that it increases the amount of information available to parties other than those who are directly involved in the treatment of individuals with addictions. We believe that the amount of data currently available to funding sources, probation/parole officials, and governmental officials is sufficient to determine admission eligibility. It must be taken into account that giving additional information to these sources may involve giving it to those who are neither medical nor clinical participants in the care of those in need of treatment. Furthermore, we believe these proposed changes may erode the potential effect of Act 106, which mandates insurance coverage of addiction treatment. The additional information may be used arbitrarily to deny treatment to individuals in need. I have enclosed a copy of our March 2007 response, to the changes that were proposed then, to illustrate.

People who need treatment for addiction are commonly stigmatized and ashamed to enter programs due to a fear of identification as a substance abuse patient. This will increase their fears, as well as deliver their personal and highly sensitive information into the hands of people who may not handle it as carefully as treatment programs do. The proposed regulations call for the disclosure of virtually everything in the client's file, including a psychosocial assessment, which includes very detailed information on the client's background, including that of family members, child abuse, sexual history, past legal history, etc.

When people are reluctant to enter treatment, for fear of their personal information being broadcast to a wide range of entities, the consequence is devastating to almost every facet of our society. It has social, economic, and quality-of-life impact. Many of these potential clients, without treatment, will end up in the already over-burdened criminal justice system. As addiction without treatment is always a fatal disease, we oppose these regulations because they can negatively affect the public health and safety by having individuals potentially avoid getting appropriate treatment because of the lack of confidentiality.

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Furthermore, many of the points of information called for in the proposed regulations are very subjective and variable in their nature – a person’s “motivation to change” and “level of intoxication” can change frequently – even daily – in the course of detoxification, assessment and evaluation for treatment appropriateness, in the clients we see. Relapse triggers and social support systems can be something that changes dramatically throughout the course of a client’s treatment – and may not even be able to be determined at the onset of treatment.

These proposed regulations do not really define what information could be withheld from other parties – even when it has no impact on a treatment decision. There will be an extra – and costly – burden on the clinical and administrative staff in treatment facilities to determine what data is appropriate to transmit.

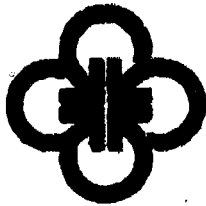
Also, the Pennsylvania Client Placement Criteria (PCPC) has been the recognized format for admission to treatment facilities for some time. Why was the ASAM used as a guideline for these proposed regulations? The PCPC calls for basic information about intoxication/withdrawal, biomedical conditions, emotional/behavioral circumstances, treatment acceptance or resistance, relapse potential, and recovery environment. This has been sufficient in the past, and, of course, is subject to the assessment of the staff, but why do we need to replace this criteria? This tool requires a professional to assess the level of care that is needed by the person seeking treatment. We do not understand why the PCPC is not sufficient, to determine the need for treatment.

We welcome any feedback you have to respond to our comments, and we thank you for accepting our opinion.

Sincerely,

Michael Harle
Executive Director

Cc: Independent Regulatory Review Commission
Honorable State Representative Frank Oliver
Honorable State Representative George Kenney
Honorable State Senator Edwin Erickson
Honorable State Senator Vincent Hughes



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Robert P. Kully
Chairman of the Board

Michael Harle, M.H.S.
President/Executive Director

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March 23, 2007

Division of Drug and Alcohol Program Licensure
Attn: Cheryl Williams
Pa Department of Health
132 Kline Plaza, Suite A
Harrisburg, PA 17104

Re: Comments 4 PA Code Section 255.5 (b)

Dear Ms. Williams,

The following are our comments on the proposed regulations which rescind regulations that protect the confidentiality and privacy of individuals receiving drug and alcohol treatment.

Such a rescission turns back the clock of the protected rights of individuals. The national trend has been for more protection as evidenced by the recent protections afforded through HIPAA.

The purpose for the rescission as stated by the Department of Health is absolutely incorrect. The Department of Health stated the following:

"The Department seeks to rescind Section 255.5 (b), in part and Section 255.5 (b) of Title 4, Chapter 255 of the Pennsylvania Code because these provisions are outdated and impede service delivery & the coordination of care for individuals with substance abuse problems. The rescission is in the public's interest."

Since when is invading the privacy of individuals in the public interest? This rescission seems to be in the best interest of the insurance companies which continue to deny treatment to addicts and alcoholics; thereby continuing the vicious cycle of generational addiction.

As the largest chemical dependency treatment organization in the Commonwealth, Gaudenzia has not heard complaints from referral sources, government agencies or the court system concerning the current regulations by which we have operated under since their inception. The only complaints are from the insurance industry which has a monetary interest in the denial of treatment. The Department of Health further stated:

"More specifically, Section 255.5 (b) identifies what information may be released to judges, probation or parole officers, insurance companies,

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health or hospital plans and government officials" for the purpose of determining the advisability of continuing the client with the assigned project." The information that may be released includes: (1) whether the client is or is not in treatment; (2) the prognosis of the client; (3) the nature of the project; (4) a brief description of the progress of the client; and (5) a short statement as to whether the client has relapsed into drug, or alcohol abuse and the frequency of such relapse."

As the largest provider of services for the criminal justice system in the Commonwealth, Gaudenzia has worked with judges, probation & parole and has provided the information permitted in the current regulations and know that the information is sufficient for these individuals.

Insurance companies and more specifically managed care organizations complain they do not have sufficient information. This is the same group that has taken the Insurance Commissioner to court over a policy statement upholding Act 106. These same insurance companies previously had completely ignored Act 106 and denied benefits to suffering alcoholics and addicts. The policy that the insurance companies are challenging in court states:

"The only prerequisite before an insured obtains non-hospital residential and outpatient coverage for alcohol and drug dependency treatment is a certification and referral from a licensed physician or licensed psychologist"

Act 106 of 1989 requires all commercial group health plans and health maintenance organizations provide comprehensive coverage of addiction treatment. The insurance companies want to deny treatment even when a medical doctor prescribes such treatment.

A clear reading of the notice of rescission strongly suggests that it has been chauffeured by the insurance industry which has history of denying services to suffering addicts and alcoholics. To suggest that such a rescission is in the public interest dismisses the rights of the addicts and alcoholics afforded them not only by HIPAA but also the Americans with Disabilities Act and the Rehabilitation Act. In the case of Gaudenzia specifically such recession does have an adverse impact on a protected class of individuals under the State & Federal laws prohibiting discrimination.

Gaudenzia opposes the rescinding of the confidentiality regulations. We do not believe that it would at all improve individual's access or quality of treatment

Sincerely,

Michael Harle, President
Gaudenzia, Inc.