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Treatment Trends, Inc.

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♦ Richard S. Csandl Recovery House ♦ TCAP

January 15, 2008

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

Subject: Opposition of Changes to Pa. Confidentiality Laws
Transparency and Accountability for Not Following Act 63

Dear Ms. Staloski,

I am writing this letter to oppose the loosening of our confidentiality laws as proposed in Regulation 10 – 186, Confidentiality of Drug and Alcohol Addiction (D&A) Treatment Patient Records and Information.

4 Pa. Code 255.5 is serving our clientele and has been for decades. It is about to be shamefully loosened which can allow for increased discrimination and stigmatization of individuals seeking D&A treatment. Privacy protections are eroding in many areas of the fabric of American life which, once lost, are lost forever.

Whenever vulnerable populations are effected, government, state department bureaucracies and social service agencies need to be vocal, vehement and vigilant protectors of the rights of effected persons.

The use of ambiguous language, such as that being proposed in Regulation 10 – 186, will certainly result in court actions that will be costly and time consuming until defined. In the meantime, significant malfeasance can occur that has been effectively thwarted by the clearly defined law and regulation now in place. Ethics demands proscriptive protection, not ambiguity that can only offer up trouble in the forms of discrimination against our clients receiving help.

Due to the shame, guilt, and embarrassment amassed during the course of the progression of the disease of addiction, sensitive data that is kept in the private annals of agencies is now shredded like clockwork for the protection of client privacy. There are stories, many stories, forwarded by line counselors who struggle with managed care companies to limit the information given out to what is allowed by law. This means the managed care companies want ever more information to justify continued lengths of stay. Already the information given out is misinterpreted by managed care to get people out earlier and limit costs.

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This is done despite all research showing that the longer the time in treatment, the more likely a positive outcome AND that symptom reduction is often temporary and lacking in the consistency needed for change to be internalized.

Simply, the more information we give a payer, the more room for the payer to discriminate against the client. They would have more information to interpret or misinterpret out of their self interest in the bottom-line, even though they contend they are interested in outcomes. Since addicts don't usually want treatment, payers should seek to keep clients in treatment longer, not force discharge prematurely. Outcomes that should be measured over the long term include health care consequences which become more costly and complicated when addiction is under-treated in order to save money now.

The counselor and client notations of sensitive trauma in life, physical and/or sexual abuse, does not need to be kept on file for decades for new or different case reviewers to have on hand in their files. This should remain private and protected between counselor and client, much like is done between and priest and a parishioner. Some information is so sensitive, it perhaps should be considered a "sacred" trust that is held in the privacy of the bonds of helper and helpee. Information releases fought through the ambiguities of the proposed "allowed release clauses" can result in clients sharing LESS information for fear it will unintentionally be used against them later.

This proposed change of the law further disempowers the client because if the client refuses to sign a release, it could result in them being label non-cooperative and receiving no care or inappropriate levels of care. The already coerced criminal justice clients will use this to manipulate their care into lesser structured levels of care and can ultimately result in relapse and re-incarceration. This will effectively shift the cost to prisons where treatment access and quality is often questionable.

Weak information protections can result in private information being stored in some Managed Care Organization (MCO) database for decades and unexpectedly be used against clients later in life when insurance companies write pre-existent condition policies.

Privacy with managed care companies is already difficult because of contract language provisions for client chart reviews whereby MCO "care mangers" tell professional D&A counselors that their notes need to look more like mental health notes in content. This will worsen as ambiguities become normalized. During continued stay reviews with MCO's, the information requests will increase. The paperwork demands on already overburdened, thinly staffed treatment agencies will shift the paradigm even more so to the payer and not privacy protections.

And finally, remaining unaddressed, is the growing spread of computerized data and offsite records that have no requirements or regulations addressing disposal or deletion and no visible oversight to assure disposal occurs.

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In summary, I raise serious concerns about ethics and privacy protections for our clientele. I also MUST ask questions about the lack of transparency in how this regulation went this far without the consent of the Pa. Advisory Council on Drug and Alcohol Abuse when Act 63's (1972) Drug and Alcohol Abuse Control Act specifically requires the "sign off" of the Council (Section 3 (e) (2) :

> *The Department of Health shall seek the written advice and consultation of the Council in the following areas: The promulgation by the Department of Health of any regulations necessary to carry out the purpose of this ACT (Act 63 of 1972).*

The Pa. Advisory Council on Drug and Alcohol Abuse voted **twice** in opposition to the changes of the confidentiality laws.

As government bureaucracies have a requirement of transparency, I am outraged. As a concerned citizen and professional working in this field, I demand a full account and public explanation of the actions of the parties involved in this shenanigan that got the situation to this point.

Sincerely,

Robert Csandl, MHS, LPC

Robert C. Csandl, MHS, LPC
Executive Director
Treatment Trends, Inc.

cc: Deb Beck, President, DASPOP
Bruce Groner, Chairperson, Treatment Trends, Inc.
Jack Bury, Vice Chairperson, Treatment Trends, Inc.
Michael Harle, Executive Director, Gaudenzia, Inc.
Phil Arnold, Administrator, Lehigh County Drug & Alcohol Commission
Pat Browne, Pa. Senate
Lisa Boscola, Pa. Senate
Jennifer Mann, Pa. Representative
Karen Beyer, Pa. Representative
Doug Reichley, Pa. Representative
Steven Samuelson, Pa. Representative
Julie Harhart, Pa. Representative
Robert Freeman, Pa. Representative
Craig Dally, Pa. Representative
Bill Stauffer, Program Director, Halfway Home of LV
Lauren Henry, Clinical Director, Keenan House
Martin Kunda, Program Director, Confront

What you do echos for eternity
~ Maximus Desemus Meridus