

NorthEast
Treatment
Centers **NET**

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Behavioral Health & Social Services
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ADMINISTRATIVE OFFICES

January 14, 2008

INDEPENDENT REGULATORY
REVIEW COMMISSION

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Ms. Janice Staloski, Director
Bureau of Community Program Licensure
and Certification, Dept. of Health
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Harrisburg, PA 17104-1579

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BUREAU OF COMMUNITY PROGRAM
LICENSURE & CERTIFICATION

ADULT BEHAVIORAL
HEALTHCARE SERVICES

Bridge Street
Counseling Center

NET Steps Program

Spring Garden
Counseling Center

Wharton Residential Center

Kiskwood
Detoxification Center

PA CHILDREN, YOUTH AND
FAMILY SERVICES

Foster Care and
Adoption Services

PA Child and Family
Behavioral Health Services

Juvenile Justice Services

Springfield
Counseling Center

DE Child and Family
Behavioral Health Services

Iron Hill Residential Center

Red Lion Residential Center

Dear Ms. Staloski:

NorthEast Treatment Centers (NET) wants to provide its endorsement of the proposed changes to 4 Pa. Code § 255.5. NET has been providing drug and alcohol treatment services in Pennsylvania for over 37 years.

NET has found that the federal Alcohol and Other Drugs Confidentiality Rule allows an important balance between protecting highly sensitive patient identifying information and allowing disclosure of PII in appropriate situations, with valid consents where required. As you know, current Pennsylvania law prevents disclosure even when it would benefit the consumer's ability to obtain needed services, and even when a competent consumer wishes to have the information disclosed. The reality is that compliance with the current statute places providers in an untenable situation where statutory law sometimes conflicts with professional best practices.

NET believes that the following proposed changes are of particular importance to consumers, and to providers' ability to serve them:

- § 255.5(b): This proposed change clarifies that the consumer's record belongs to the provider entity, and that the consumer has control over his/her individual record.
- § 255.5(c): Perhaps most significant of all the proposed changes, this section would allow the provider to comply with a consumer's authorization, as expressed in a valid, informed, and voluntary written consent, to release information beyond what is allowed by current § 255(b). Specifically, this change would facilitate treatment of consumers with a co-occurring disorder. The change would allow disclosure of treatment records to medical personnel for diagnosis, treatment, or referral for treatment, and to government and third party payers in order to facilitate authorization of necessary treatment services. As drafted, the expansion of disclosure allowed here would be balanced by



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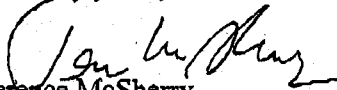
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limitations and restrictions that would protect the consumer's privacy, and protect the provider against inappropriate requests for information. Significantly, this change also would make it harder for managed care companies to deny authorization for services on the basis of lack of available consumer information for evaluation.

- § 255(d): This proposed change would respect the consumer's right to confidentiality, while recognizing the rights and safety of others. Under this proposed change, as under federal law, Pennsylvania providers would be allowed to release PII that is directly related to the consumer's commission of a crime on the provider's premises, or threat to commit such a crime.
- § 255(d)(4): This proposed change would allow providers to report child abuse without it being a breach of confidentiality. This change is in keeping with the federal AOD Confidentiality Rule, and Pennsylvania's own law regarding mandated reporting of suspected child abuse.
- § 255(d)(6): This proposed change, like its federal counterpart, allows for disclosure for purposes of licensure, audit, and evaluations. For obvious reasons, it is in the best interests of consumers for their treatment providers to be held accountable for the services they provide.
- § 255(d)(7): This proposed change is important because, like the federal Confidentiality Rule, it restricts what can be disclosed, notwithstanding any other provision permitting disclosure, to that which is relevant and necessary to the specific purpose of the disclosure.
- § 255(e): In every other medical situation, patients have the right to access their own records. This change would allow what should be the inherent right of consumers to access their records, with a caveat that permits withholding of information when a professional, based on his/her professional judgment, determines that access to specific information may be detrimental to the consumer.

NorthEast Treatment Centers supports and endorses the proposed changes because they will facilitate provision and receipt of quality and coordinated services and, in so doing, benefit all consumers. We hope the proposed changes will become law in the near future.

Sincerely yours,


Terence McSherry
President and CEO