



Pennsylvania Recovery Organization - Achieving Community Together

252 West Swamp Road, Unit #12  
Doylestown, PA 18901-2444  
Ph: 215-345-6644 • Fx: 215-348-8877  
E-mail: [info@proact.org](mailto:info@proact.org) • Website: [www.proact.org](http://www.proact.org)

444 North 3<sup>rd</sup> Street, Suite 307  
Philadelphia, PA 19123

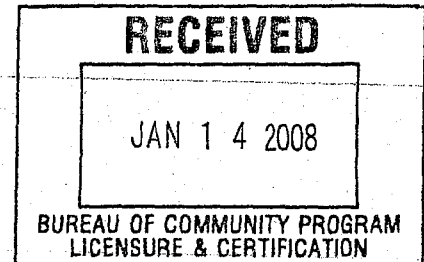
OFFICE OF LEGAL COUNSEL

INDEPENDENT REGULATORY  
REVIEW COMMISSION

2654

January 10, 2008

Janice Staloski, Director  
Bureau of Community Program Licensure  
and Certification  
Department of Health  
132 Kline Plaza, Suite A  
Harrisburg, PA 17104  
Reference DOH Proposed Regulation No. 10-186



Dear Ms. Janice Staloski,

Thank you for the opportunity to comment on this proposed regulation to which PRO-ACT is opposed as the confidentiality of drug and alcohol addiction treatment patient records and information now afforded under PA CODE 255.5 and under Act 63 will be seriously compromised by this proposed regulation.

PRO-ACT is a grass-roots recovery support initiative in Southeastern Pennsylvania working to reduce the stigma of addiction, ensure the availability of adequate treatment and recovery support services, and to influence public opinion and policy regarding the value recovery.

The present State and Federal regulations governing confidentiality of drug and alcohol treatment information is both current and adequate in matters dealing with access to treatment, coordination of care and communication between service providers, payers and regulators.

The new regulations add risk of loss of data from new databases, extending, through broadness of definition language; those entities who can improperly gain data access (e.g. 'Medical Personnel').

The persons in treatment are both fragile and in jeopardy from the consequences of the stigma associated with their disease. Those in the field must do everything in their power to protect these persons and we look to the State Department of Health as key in assuring protection from the adverse consequences that can befall them.

A serious problem facing treatment and service providers in the field of addiction treatment is the already onerous administrative complexity and paperwork loads. The field is losing and has problems attracting workers due to the tedium and frustration that exists currently.

PRO-ACT is a grassroots initiative hosted by the Bucks County Council on Alcoholism and Drug Dependence, Inc., a private, non-profit organization. PRO-ACT is partially funded by the following entities: The City of Philadelphia, Department of Behavioral Health/Mental Retardation Services, Bucks County Drug and Alcohol Commission, Inc., under a contract between the Pennsylvania Department of Health and the County of Bucks, Montgomery County Mental Health/Mental Retardation/Drug and Alcohol/Behavioral Health Programs, and The Department of Health, Chester County Department of Drug and Alcohol Services, Commonwealth of Pennsylvania.

We feel strongly that these new regulations will only exacerbate this critical problem. Reviews of the proposed new regulations by professionals in the field confirm this to us.

The keystone in law affording protection and fair play to those suffering from addiction diseases, that have insurance coverage, is PA Law Act 106 of 1989. Additional access to confidential information and the vagueness in the language providing that access, we feel, jeopardizes the rights of patients/clients which are guaranteed under PA Law Act 106. We feel the proposed language would substantially expand the information permitted to be disclosed to health insurance companies, accrues cost, delays access to care and discourages clients from sharing histories.

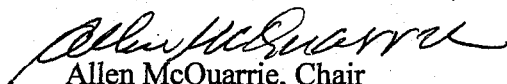
PRO-ACT has a history of representing and advocating on behalf of those seeking treatment by invoking Act 106. For over five years we have helped more than four hundred and eighty people obtain access to care, receive reimbursement of \$383,000.00 after paying out of pocket and obtaining access to care for three hundred and seventy six people who otherwise had been denied. We have educated service providers to invoke Act 106 to the benefit of those having the right to treatment.

The amended confidentiality code may be construed by third party payers to bypass Act 106 causing untold numbers of those seeking treatment to be denied, referred to inferior care or delayed care to their detriment. It may also have the unintended consequences of undermining the efficacy of the treating physician's authority in determining the level of care necessary to assure recovery. Act 106 has been upheld by the PA Insurance Department, the PA Attorney General's office and the PA Commonwealth Court. These amendments may preempt the legislative intent of Act 106.

Privacy and confidentiality are essential elements of effective addiction treatment programs. We strongly believe that this proposed regulation will seriously (if inadvertently) erode that cornerstone.

Please withdraw this proposed regulation from further consideration.

In Advocacy,

  
Allen McQuarrie, Chair  
PRO-ACT Southeastern PA  
Regional Public Policy Committee

Joseph N. Carroll, Co-Chair  
Regional Public Policy Committee

Babette W. Benham  
PRO-ACT Client Advocate

**4 PA Code Section 255.5 (b)**  
**PRO-ACT Position Letters on Confidentiality Sent to;**

PA State Representatives Frank Oliver and George Kenney,  
PA Senators Edwin Erickson and Vincent Hughes  
Secretary Calvin Johnson, M.D., MPH, Department of Health  
Deb Beck, President of DASPOP  
Cheryl D. Williams, Director PA Department of Health, Bureau of Drug and Alcohol  
Kim Bowman, Executive Director, County of Chester Department of Drug and Alcohol  
Michele Denk, Executive Director, PA Assoc. of County Drug and Alcohol Admin.  
Margaret Hanna, Executive Director, Bucks County Drug and Alcohol Commission  
Beverley J. Haberle, MHS, LCAC, Executive Director Bucks County Council  
Cheryl L. Floyd, LSW, CCDP, Executive Director of PRO-A  
Lynn Cooper, Deputy Director, PA Community Providers Assoc.