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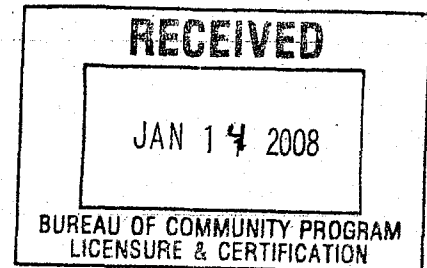
INDEPENDENT REGULATORY
REVIEW COMMISSION

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January 10, 2008

2654

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



Dear Ms. Staloski

As a healthcare executive for 30 years and as a Regional Director for one of Pennsylvania's largest drug and alcohol addiction treatment programs, I am strongly moved to formally share my opposition to the proposed changes in 4 PA Code Section 255.5 (b), as published in the Department's Proposed Regulation No. 10-186.

PA 255.5(b) has been the mainstay of "protection" for so many individuals who may have never proceeded in their search for treatment for their drug and/or alcohol problem. As the stigma over the years has both lessened and increased, there has only been one constant in the comfort our patients have felt...anonymity, the guarantee that only those outside individuals who have a need to know will know they are in treatment for this devastating disease and that only the very basic information will be disclosed for the sole purpose of covering their stay from a funding aspect. In brief, it is my belief that altering 255.5 (b) in the proposed manner will adversely affect treatment providers, perpetuate the stigma associated with the disease of addiction, limit access to treatment, and ultimately harm the most vulnerable patients who are desperately in need of treatment services as they will no longer feel "safe" from an information sharing standpoint.

Please allow me to be more specific:

- The Department's intent of the proposed rulemaking is to expand the amount of information treatment providers may release to other entities in accordance with the existing statute, and to clarify for treatment providers and patients what the rules related to confidentiality and disclosure of patient-identifying information are. Not to be disrespectful however, I believe treatment providers know what rules are relating to confidentiality as it is this Department which regulates annually the compliance of such confidentiality and the proper release of same. Also, PA 255.5 is clear as written and requires no clarification on the part of the treatment provider. Also, as treatment professionals and providers, the manner in

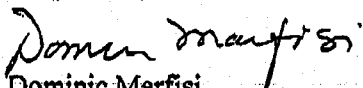
which the information is relayed to the patient is clear, concise and complete, again as indicated when the Department inspects each treatment provider annually.

- The proposed changes appear to be in direct conflict with Act 106 of 1989. While the proposed changes promulgate the need for additional information to define medical necessity, Act 106 requires simply a certification and referral from a licensed physician or licensed psychologist. Upon receipt of that certification, mandated benefits apply and it is the judgment of the skilled professional of the treatment program that determines the need for ongoing treatment rather than an individual who is not medically or legally responsible for the patient leading to very "murky water" to tread through, not to mention how these proposed changes would discredit the mandates of Act 106.
- The proposed amendment to PA 255.5 would have you believe that individuals seeking treatment will benefit from these amendments allowing them greater access to services, more appropriate lengths of stay, and improved coordination between various levels and types of care however in reality I strongly believe it would limit access to care once consumers realize that there will be a "no holds barred" approach to information access by funding and other source agencies. In addition, the term "more appropriate length of stay" translates to more restricted access to care as patients may feel they are being "bumped" from one level of service or provider to another with more and more individuals having access to their very personal and very private information. The on-site treating medical and clinical professionals' opinions will be more likely disregarded as funding sources will seek ways to quantitatively dispel the art of a clinical impression. Treatment providers will likely be challenged to provide justifications for continued stays beyond information identified in the Pennsylvania Client Placement Criteria. Unfortunately, some payers within the state will choose to use this information to minimize the need for care.
- Although 42 CFR Part 2, the Federal standard protects confidentiality in a general sense, 255.5 (b) has been the clear, uncompromised pillar for which we have practiced for many years. Until addiction is accepted by our society as a chronic medical disease which has fatal consequences if not treated aggressively, the proposed changes to 255.5 will expose patients to a level of subjective scrutiny by payers, the legal system, and employers, which is unacceptable, unnecessary and inappropriate.

In summary, it is my belief that the proposed changes to 255.5 (b) will not further our collective mission in extending treatment to those in need.

Thank you for allowing my to share my position with you.

Respectfully,



Dominic Marfisi

Regional Director – Eastern PA, White Deer Run

CC: Independent Regulatory Review Commission
Representative Frank Oliver
Senator Edwin Erickson
Representative George Kenney
Senator Vincent Hughes



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FACSIMILE

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