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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 the Executive Director of one of Pennsylvania's largest drug and alcohol addiction treatment programs, I would like to formally state 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.

As the principle representative of a treatment system which includes 25 locations with 36 licensed programs in Pennsylvania, and which has a longstanding history of compliance with the current regulation, I can assure you that the current boundaries established in 255.5 (b) are not only manageable, but also equally appropriate. Although the stated purpose of this proposed action is admirable and appears well-intended, it is my belief that altering 255.5 (b) in the proposed manner will adversely affect treatment providers, perpetuate the stigma often associated with the disease of addiction, limit access to treatment, and ultimately harm the most vulnerable clients in need of rehabilitative services.

I have come to this conclusion by considering the following and offer them for your consideration:

- Current regulatory requirements and subsequent interpretations of 255.5 (b) clearly delineate information that can be shared with third party payers, managed care organizations, the legal system, etc. in a well defined manner. The proposed changes offer a level of ambiguity that will promote inconsistent release of previously protected information based on the judgment of individual leaders of treatment programs. It is conceivable to speculate that providers will be encouraged to take a more liberal position in terms of releasing previously protected information, in an effort to facilitate payment and ensure contractual preference with managed care and third party payers.

- 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. These proposed changes cloud and discredit the mandates of Act 106.

- Currently our medical records and utilization review departments provide limited information as established by law. It may be surmised that payers will establish new requirements well in excess of the current 5 points currently allowable, which will require additional time, resources, conversations and justification. It is likely that providers' time carrying this administrative burden will grow exponentially. The statement in the announcement of this proposed change that there is "no fiscal impact" clearly does not take into consideration the providers' costs. This financial impact will be additionally compounded as third party payers use this change to mandate information related to clients eligible for services available through Act 106.

- Decisions regarding access to care, lengths of stay in treatment, and levels of care will be more heavily influenced by payers and case managers. On site treating clinicians' opinions will be more likely disregarded as payers seek avenues to quantitatively dispel the art of a clinical impression. Service 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 may choose to use this information to minimize the need for care.

- With the exception of releases made to prevent harm to self and others or to report a crime at the location of a treatment facility, I believe releases without consent of the client are improper and perpetuate the ideal that addiction is a choice as opposed to a disease.

- Although Federal standards protect confidentiality in a general sense, 255.5 (b) is the stalwart for which we have practiced for many years. Until we reach a place in society where addiction is accepted as a chronic disease with fatal consequences if not treated aggressively, the proposed changes to this important regulation will expose clients to a level of subjective scrutiny by payers, the legal system, and potential employers, which is unnecessary and inappropriate.

In summary, while I understand that the Department of Health, the current Administration and Pennsylvania drug and alcohol addiction treatment programs are charged with protecting the best interest of the consumers here in the Commonwealth, the proposed changes to 255.5 (b) will not further our collective mission in extending treatment to those in need.

Thank you for your consideration.

Respectfully,

Joseph A. Procopio
Regional Vice President CRC Health
Executive Director, White Deer Run

cc: Independent Regulatory Review Commission
Representative Frank Oliver
Senator Edwin Erickson
Representative George Kenney
Senator Vincent Hughes
Jerry Rhodes, President, CRC Health, Recovery Division