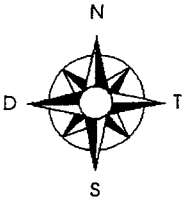
NEW DIRECTIONS Treatment Services



May 8, 2008

2654

Ms. Janice Stalosky, Director
Bureau of Community Program
Licensure and Certification
132 Kline Plaza, Suite A
Harrisburg, PA 17104

Dear Ms. Stalosky,

This is in response to the proposal to amend the state's confidentiality requirement, particularly as it relates to Section 255.5. There are several concerns raised by the proposal. Firstly, the justifications put forth as to the need for change are transparently without merit. For example, clients themselves can be given copies of their drug screen results and most other restricted information, on their program's letterhead, and the client can then provide that information to potential employers or anyone else they choose. There is thus no genuine problem in terms of clients not being able to have positive information about their treatment being made available to third parties. Also, proponents suggest that it is in some way aberrant to have state regulations to address a subject also addressed by federal regulations. Nothing could be further from the truth. Indeed, it is typical for states to have more restrictive or more detailed regulations than the federal regulations in regard to most areas of public health, the environment, and so on. State versus federal methadone regulations are but one example.

As to the harm that the proposal could be expected to cause, the primary concern is that it will drastically change the relationship between providers and payers in terms of clinical decision making. Even now, payers often disregard the recommendations of clinical experts at licensed programs. This is most common in regard to payers refusing to approve requested length of stay, recommendation for inpatient stays, and so on. However, currently payers (such as HealthChoices contractors) aren't permitted to have all of the detailed information about the

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client that is held by the licensed program. That limits the ability of the payer to completely disregard the opinion/ recommendation of the agencies. That is the reason payers have, increasingly, been attempting to force providers to violate Section 255.5. Some providers have grown weary of resisting the pressure (and of being cited by the DOH) and are in agreement to let the payers have vastly more of the client's data. This will, in effect, make the payer the clinical supervisor of the agency. I am not willing to cede that role and neither are many others. We believe it will be a change which is very much against the interest of clients and of the field. The payers have a financial motive to underserve the client and, typically, have staffs making such care decision that are less qualified than provider staff. Beyond the payer issue, there is the issue of criminal justice staff and others with no real understanding of addiction processes and issues being given much more detailed information about the client which will be misinterpreted and misused to the client's detriment.

In addition, it must be noted that the proposal couches all of these changes in terms of the client having to give consent for the information to be released. It is difficult for me to understand how anyone could seriously suggest that the client has any choice in the matter. These people are at the mercy of their insurance company, their probation officer, and even their treatment provider. If the insurance companies pressure clients to give consent, they will do so. If they pressure providers to get consents (as they currently pressure providers to violate 255.5), providers will get consents one way or another. If a probation officer tells a client he wants to see the entire drug screen results and that he expects the client to sign consent to it, the client has no real choice to refuse. These entities all can give or withhold things the client feels are important. It is an inherently unequal relationship. Many providers will simply give consent forms to new clients upon entry to the program and it will be understood that signing them is part of the intake requirement. Stipulating that the client must give consent is of no value at all in modulating the release of information or in terms of protecting clients.

Thank you for considering these comments.

Sincerely,

Glen J. Cooper
Executive Director