

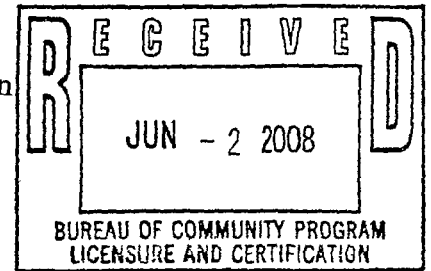
# PENNSYLVANIA PSYCHOLOGICAL ASSOCIATION RECEIVED

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May 22, 2008

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Harrisburg, PA 17104

RE: Draft Regulations, No. 10-186

Dear Ms. Staloski:

On behalf of the Pennsylvania Psychological Association, I am writing to thank you for the second opportunity to review and comment on proposed regulations dealing with confidentiality of drug and alcohol addiction treatment records. We had commented on a previous version of the regulations, but none of our concerns were addressed in the revisions or the commentary to the revisions. Nonetheless, we will reiterate and expand upon those concerns.

The salient issue deals with the information which can be sent to insurers. The list of information that would be permitted under these regulations far exceeds that which is permitted under the federal HIPAA law. As you may know, state law may make regulations more protective of patient privacy from the standpoint of the patient, but they cannot make regulations that undercut patient privacy from the standpoint of the patient.

We acknowledge that the application of HIPAA to substance abuse treatment is not always clear. **Nonetheless, we argue that the HIPAA Privacy Regulations as pertaining to mental health patients should, in this context, also apply to patients receiving treatment for drug and alcohol disorders.** We note that the Pennsylvania Department of Health, in conjunction with the Department of Public Welfare, had issued a joint bulletin allowing for the licensure of facilities that can treat patients with both substance abuse and mental health disorders. This memo noted that, among things, "concurring disorders are an expectation, not an exception" and that "when psychiatric and substance abuse disorders exist, both disorders should be considered primary." A copy of the relevant portions of this bulletin is enclosed.

**If, according to the Pennsylvania Department of Health, a coexistent mental disorder is an expectation in a person presenting for substance abuse treatment, and mental health and substance abuse diagnoses are equally primary, then it would appear that the HIPAA privacy rules applying to mental health treatment should be applicable.** Consequently, the restrictions that HIPAA places on the information that should be released to insurance companies on mental health patients should also apply to the information released about drug and alcohol patients. As we noted previously the proposed regulations of the Department of Health would permit detailed information that exceeds a reasonable determination of what constitutes a summary and what would be minimally necessary according to HIPAA standards.

We request that IRRC reject these draft regulations until they come into compliance with existing federal law.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. Knapp', written over the word 'Sincerely,'.

Samuel Knapp, Ed.D.  
Director of Professional Affairs

cc: Scott Schalles, Independent Regulatory Review Commission