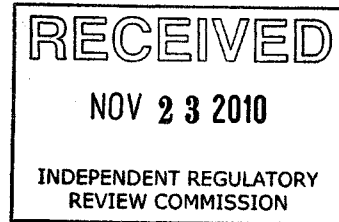


2878

November 17, 2010



Mr. Stanely Mrozowski  
DPW/OMHSAS  
223 Beechmont Building  
DGS Annex Complex  
P.O. Box 2675  
Harrisburg, PA 17105-2675

Dear Stanely:

The Pennsylvania Council of Chief Juvenile Probation Officers is sending comments on the proposed Residential Treatment Facility Regulations 14-522.

Since the Department of Welfare Medical Assistance Realignment initiative of several years ago, an increasing number of youths from the Juvenile Justice System have gained access to Mental Health Treatment in Residential Treatment Facilities. Thus creating a partnership of two systems working for the betterment of youth, but with each being unfamiliar with the rules and regulations that govern each system. Each system has an obligation to recognize, understand and adhere to the others rules and regulations.

Within the proposed regulations there is a reference for RTFs, to comply with the Juvenile Act, Sections 6301 to 6365 to the extent applicable which is contained within section 23.20 Consent to Treatment. What must be recognized is that the high majority of the sections within the Juvenile Act have little to no applicability to RTF placements and that no reference is made to comply with the Appendices attached to the Act. This is significant in that unless the person who is responsible for compliance has a very good understanding of the Juvenile Justice System and Juvenile Act they probably will not recognize what is applicable and what is not.

Within the above mentioned sections of the Juvenile Act there are five sections and two appendices that are applicable;

Section 6310 Parental Participation - Enables the Court to order a parent(s), guardian or custodian to participate in treatment.

Section 6340 Consent Decree - Provides for a youth to be placed under supervision of Juvenile Probation without an Adjudication of Delinquency. While it is not common practice the Court has allowed youths to obtain mental health treatment in an RTF as a condition of the Consent Decree.

Section 6352 Disposition of a Delinquent Youth - Provides that the Court make a disposition determined to be consistent with the protection of the public interest, best suited to the child's treatment, supervision, rehabilitation and welfare which shall as appropriate to the individual circumstance of the child's case provide balanced attention to the protection of the community, the imposition of accountability for offenses committed and the development of competencies to enable the child to become a responsible and productive member of the community.

Section 6352.1 Treatment Records – Allows the Court to order the participation of the county agency or juvenile probation officer in the development of a treatment plan for the child as necessary to protect the health, safety or welfare of the child or the child's parent(s) in furtherance of a disposition under section 6352 Disposition of a Delinquent Youth.

Section 6353 Limitation on and Change in Place of Commitment – Provides that the Court review each commitment every six months and shall hold a disposition review hearing at least every nine months.

The Juvenile Act Appendices are

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18 P.S. 11 101 Crime Victim Act – In subsection 11.201 covers the right of a victim of a personal injury crime committed by a juvenile who is ordered into a residential placement, shelter or detention facility to receive notice of the date of release of the youth including temporary leaves or home pass. Under subsection B, Responsibilities section 11.212 outlines the responsibilities of state and local law enforcement agencies. Section 11.213 outlines the responsibilities of the prosecutor's office that covers responsibilities for juveniles. Section 11.215 covers the responsibilities of the Department of Welfare and Mental Health Institutions. While this applies to adult offenders, this needs to be placed in the context in that the Crime Victims Act was written in 2002 and enacted in 2003 prior to DPW's MA realignment initiative. Section 11.216 covers Responsibilities of the Juvenile Probation Office specifically section (d)(1) to provide notice to the victim when an adjudicated youth is ordered into residential placement or official detention and when they will be granted temporary leave or home pass or release.

In post MA realignment it is imperative that both systems include a requirement for a mechanism in which RTF's and Juvenile Probation Departments state wide coordinate to ensure victim notification. This is especially applicable to youths in RTF's for violent offenses to include sex offending behavior, where victims are generally very young and reside within the offender's neighborhood.

18 PA C.S. 9123 Expungement of Juvenile Records – provides that upon the issuance of a Court order that records of juvenile delinquency cases wherever kept or retained be expunged.

Further, potentially requiring all RTFs become accredited by the Council on Accreditation, the Commission on Accreditation of Residential Facilities, the Joint Commission (JACHO) or any other accrediting entity approved by Department in order to receive MA payments, along with the requirement of a maximum RTF capacity of 4 buildings housing a maximum of twelve youths raise questions and possibly serious consequences for the Juvenile Justice system. In that;

- 1) How does this affect a NON-JACHO provider such as George Junior Republic? This facility has in excess of 100 NON-JACHO RTF beds primarily used by Juvenile Justice.
- 2) What is the projected cost of NON-JACHO facilities becoming approved accredited facilities?
- 3) How many providers will choose to or can incur the additional cost of accreditation?
- 4) If they choose to become approved, to limit a provider such as George Junior Republic to a maximum 48 RTF beds will increase Juvenile Probation Departments use of OCYF Needs Based funds. When compounded by other such examples like Hoffman Homes who has 141 RTF beds the use of Needs Based funds will significantly increase along with the use of delinquent facilities. Thus partially negating MA realignment.
- 5) Finally, how many providers will choose not to become accredited?

Under the worst case scenario do juvenile justice youths found by the court to be a risk to the community and meet medical necessity requirements for mental health placements languish in detention centers due to waiting for a bed or worse be denied the opportunity for treatment due to lack of capacity or appropriate alternatives within the community.

These are concerns and questions The Pennsylvania Council of Chief Juvenile Probation Officers have and would certainly be available to meet and discuss the issues outlined in these comments. Thank you for your time in reading these comments and of your consideration.

Sincerely,

Hank Thielemann  
Cumberland County Juvenile Probation  
Chairman of the Pa. Council of Chief Probation  
Officers Mental Health Sub-Committee

HJT/law

Erhard, E. Shaye

**From:** Thielemann, Henry [hthieleman@ccpa.net]  
**Sent:** Monday, November 22, 2010 3:49 PM  
**To:** Erhard, E. Shaye  
**Subject:** Proposed RTF regulations 14-522  
**Attachments:** Mrozowski Stanley Ltr11-17-10.doc

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Attached, please find the comment letter with regard to the above proposed regulations

Thanks

Hank

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