

Regulatory Analysis Form

(Completed by Promulgating Agency)

INDEPENDENT REGULATORY
REVIEW COMMISSION

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(All Comments submitted on this regulation will appear on IRRC's website)

(1) Agency: Department of Public Welfare

(2) Agency Number: 14-521

Identification Number:

IRRC Number: 2879

(3) PA Code Cite: 55 Pa. Code Ch. 5230

(4) Short Title: Psychiatric Rehabilitation Services

(5) Agency Contacts (List Telephone Number and Email Address):

Primary Contact: Sherry Snyder, 717-772-7900, shersnyder@pa.gov

Secondary Contact: Bill Boyer, 717-705-8297, wboyer@pa.gov

(6) Type of Rulemaking (check applicable box):

Proposed Regulation

Final Regulation

Final Omitted Regulation

Emergency Certification Regulation;

Certification by the Governor

Certification by the Attorney General

(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

This regulation adopts the minimum standards for the issuance of licenses for psychiatric rehabilitation service (PRS) facilities operated in the Commonwealth.

(8) State the statutory authority for the regulation. Include specific statutory citation.

Article IX and X of the Public Welfare Code, (62 P.S. §§ 901-922 and 1001-1059).

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

No, the regulation is not mandated by federal or state law or court order, or federal regulation.

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

This regulation adopts the minimum standards for the issuance of licenses for PRS facilities operated in the Commonwealth. The regulation is needed to assure consistency of PRS according to Nationally-recognized practices and to assure best possible outcomes for individuals receiving PRS.

Data indicates that 6,971 individuals utilized PRS during the 2010-2011 fiscal year. These individuals will benefit from a unified set of requirements. These requirements contribute to the development of a professionally-qualified and credentialed PRS workforce and protect the health of safety of individuals who receive PRS.

PRS provides for a recovery-oriented, person-centered, proactive health care and human services system in Pennsylvania. PRS has been recognized as a viable and effective service promoting recovery, full-community integration and improved quality of life for persons who have been diagnosed with serious mental illness that seriously impairs their ability to lead meaningful lives. Unique to the psychiatric rehabilitation process is its targeted focus on assisting people to gain and regain valued roles in their communities. PRS emphasizes values, such as individual involvement, individual choice, individual strengths and growth potential, shared decision-making and outcome accountability.

(11) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

The regulation establishes a unified set of standards for PRS in accordance with Nationally-recognized best practices consistent with the principles established by the United States Psychiatric Rehabilitation Association (USPRA). The Psychiatric Rehabilitation Center at Boston University was directly consulted in the development of the regulation to assure congruence with established national standards. The regulation was also cross-walked with the International Center for Clubhouse Development (ICCD) standards and certification process.

United States Psychiatric Rehabilitation Association (www.uspra.org)

The PRS Center at Boston University (www.bu.edu/cpr)

SAMHSA (www.samhsa.gov)

ICCD (www.iccd.org)

In late 2011, the Pennsylvania Association of Psychosocial Rehabilitation Services (PAPSRs) provided current data from USPRA listing the total number of professionals with a Certified Psychiatric Rehabilitation Practitioner (CPRP) credential in each state. The Commonwealth had 503 CPRP-certified professionals at that time. USPRA is the national professional organization for psychiatric rehabilitation and administers the CPRP credential.

As of August 2012, the Department of Public Welfare (Department) licenses 126 PRS facilities across 53 counties. These facilities are operated by a total of 106 PRS agencies. This data is available on the Department website (www.dpw.state.pa.us).

(12) Describe who and how many people will be adversely affected by the regulation. How are they affected?

The Department does not project any adverse effects to consumers and stakeholders.

(13) List the persons, groups or entities that will be required to comply with the regulation. Approximate the number of people who will be required to comply.

There are currently 126 PRS facilities in the Commonwealth that will be required to comply with the regulation.

(14) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

Fifty-three (53) PRS agencies will incur an initial cost of \$395 to obtain one CPRP certification and fifty-three (53) PRS agencies will incur an initial cost of \$790 to obtain two CPRP certifications. Due to staff turnover, twenty-six (26) PRS agencies will incur a cost of \$395 once every three years to obtain one CPRP certification.

(15) Provide a specific estimate of the costs and/or savings to **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

There is no cost and/or savings to local governments.

(16) Provide a specific estimate of the costs and/or savings to **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

There is no cost and/or savings to state government.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
(17) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years. (Amounts in thousands)						
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
Total Savings	\$0	\$0	\$0	\$0	\$0	\$0
COSTS:						
Regulated Community	\$0	\$48	\$0	\$0	\$0	\$0
Local Government						
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Costs	\$0	\$63	\$0	\$10	\$0	\$0
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses	\$0	\$0	\$0	\$0	\$0	\$0

(17a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
MA-Outpatient	\$435,939	\$467,929	\$645,095	\$360,137
MA-Capitation	\$2,121,765	\$2,478,449	\$3,301,109	\$3,780,674

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

The Department does not project any adverse effects to consumers and stakeholders. The regulation will ensure consistent statewide oversight of PRS based upon evidence-based and best practices. These requirements will contribute to the development of a professionally-qualified and credentialed PRS workforce and protect the health of safety of individuals who receive PRS.

(19) Describe the communications with and input from the public and any advisory council/group in the development and drafting of the regulation. List the specific persons and/or groups who were involved.

To guide the development of regulatory language for the licensing of PRS facilities, the Department convened a broad-based stakeholder group. This stakeholder group consisted of individuals representing county government, behavioral health managed care organizations, provider organizations, consumers of services and their families. The workgroup met several times between May 2009 and February 2010 to assist in drafting the PRS regulatory language.

(20) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

Regulations are needed to codify the minimum standards for the issuance of licenses for PRS facilities in the Commonwealth. These standards are in accordance with the principles established by Nationally-recognized professional PRS organizations, that is, the USPRA, the ICCD and the Coalition for Community Living.

(21) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

The regulation is not more stringent than Federal standards.

(22) How does this regulation compare with those of other states? How will this affect Pennsylvania's ability to compete with other states?

The regulation is consistent with other states and will not place the Commonwealth at a competitive disadvantage.

(23) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

This regulation will not affect any other regulations of the promulgating agency or other state agencies.

(24) Submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

The regulation details the paperwork requirements for PRS licensure. Paperwork requirements for PRS licensure include the following: an agency service description; agency policies, procedures and daily schedules; contracts and letters of agreement; quality improvement documents; individual assessments; individual rehabilitation plans; daily entries and discharge summaries. The regulation also establishes time frames for the completion of these paperwork requirements. Each PRS agency must submit a new agency service description that complies with requirements in the regulation under § 5230.15 (relating to agency service description).

The Department will provide free technical assistance to agencies to facilitate this process. The regulation does not prescribe particular forms, however, the Department will provide sample forms.

(25) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

There are no provisions specifically developed for minorities, elderly, small businesses and farmers.

(26) Include a schedule for review of the regulation including:

- | | |
|---|---|
| A. The date by which the agency must receive public comments: | November 22, 2010 |
| B. The date or dates on which public meetings or hearings will be held: | No hearings or meetings |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | December 2012 |
| D. The expected effective date of the final-form regulation: | 90 days after the date of final publication |
| E. The date by which compliance with the final-form regulation will be required: | 90 days after the date of final publication |
| F. The date by which required permits, licenses or other approvals must be obtained: | 90 days after the date of final publication |

(27) Provide the schedule for continual review of the regulation.

The Department will survey stakeholders periodically to solicit recommendations and make revisions as needed.

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WITH THE LEGISLATIVE REFERENCE BUREAU**

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<p>Copy below is hereby approved as to form and legality. Attorney General</p> <p>By: _____ (Deputy Attorney General)</p> <p>_____ Date of Approval</p> <p><input type="checkbox"/> Check if applicable Copy not approved. Objections attached.</p>	<p>Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:</p> <p>DEPARTMENT OF PUBLIC WELFARE (Agency)</p> <p>LEGAL COUNSEL: <u>Kathleen Hogan</u></p> <p>DOCUMENT/FISCAL NOTE NO. <u>#14-521</u></p> <p>DATE OF ADOPTION: _____</p> <p>BY: <u>[Signature]</u></p> <p>TITLE: <u>SECRETARY OF PUBLIC WELFARE</u> (Executive Officer, Chairman or Secretary)</p>	<p>Copy below is hereby approved as to form and legality. Executive of Independent Agencies.</p> <p>BY: <u>[Signature]</u> SHAWN E. SMITH</p> <p>NOV 08 2012. _____ Date of Approval</p> <p>(Deputy General Counsel) (Chief Counsel, Independent Agency) (Strike inapplicable title)</p> <p><input type="checkbox"/> Check if applicable. No Attorney General approval or objection within 30 days after submission.</p>
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NOTICE OF FINAL-FORM RULEMAKING

DEPARTMENT OF PUBLIC WELFARE

OFFICE OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES

[55 Pa.Code Chapter 5230]

Psychiatric Rehabilitation Services

Statutory Authority

The Department of Public Welfare (Department), under the authority of Articles IX and X of the Public Welfare Code (62 P.S. §§ 901—922 and 1001—1059), intends to add Chapter 5230 (relating to Psychiatric Rehabilitation Services) to read as set forth in Annex A. Notice of proposed rulemaking was published at 40 Pa.B. 6101 (October 23, 2010).

Purpose of Final-Form Rulemaking

The purpose of this final-form rulemaking is to adopt the minimum requirements for the issuance of licenses for psychiatric rehabilitation service (PRS) facilities operated in this Commonwealth.

Background

PRS promotes recovery, full community integration and improved quality of life for individuals who have been diagnosed with mental illness. PRS is collaborative, person-directed and individualized and is an essential element in the mental health services continuum. The promulgation of PRS regulations is consistent with the Department's following goals:

- Ensure the consistent application of service requirements statewide through the creation of licensing standards that are applicable to every PRS facility within the Commonwealth.
- Monitor quality of PRS through development of requirements for data collection and other essential elements.

- Create reliable infrastructure that supports an individual's ability to develop skills and access resources needed to increase an individual's capacity to be successful and satisfied in the living, working, learning and socializing domains of the individual's choice.

PRS is an integrated therapeutic approach for individuals with mental illness. PRS assists individuals to develop the emotional, social and intellectual skills needed to live, learn and work in the community and may decrease the need for or shorten the length of stay in inpatient, partial hospitalization and day treatment settings. PRS helps individuals to achieve valued roles in the community in living, learning, working and socializing domains. This final-form rulemaking for the licensing of PRS facilities provides a unified set of requirements in accordance with Nationally-recognized principles and practices established by the United States Psychiatric Rehabilitation Association (USPRA) (www.uspra.org), International Center for Clubhouse Development (ICCD) (www.iccd.org) and the Coalition for Community Living (www.thecccl.org).

PRS emphasizes strength-based values, which support individual involvement, choice, personal responsibility and independence. PRS also encourages growth potential and shared decision-making, as well as outcome accountability both individually and programmatically.

In 2001, the Department issued the PRS Medical Necessity Criteria and Standards-Revised (2001 Standards). In 2006, the Office of Mental Health and Substance Abuse Services (OMHSAS) issued correspondence and directives to county Mental Health/Intellectual Disability administrators endorsing the benefits of PRS and

encouraging its development in each county mental health system across the state. Through collaborative dialogue with both consumers, providers and other major stakeholders, there was consensus to develop licensure regulations to ensure consistent programmatic oversight and service delivery.

To guide the development of licensure regulations for PRS facilities, the Department convened a broad-based stakeholder workgroup in 2009. This stakeholder workgroup consisted of individuals representing county and state government, behavioral health managed care organizations (BH-MCO), provider organizations, individuals receiving services and family members. The workgroup met on several occasions between May 2009 and February 2010 to assist in drafting the PRS regulatory language and to lay the foundation to support a consistent programmatic framework. The proposed rulemaking was published on October 23, 2010, with a 30-day public comment period.

Affected Individuals and Organizations

The final-form rulemaking affects agencies that provide PRS and the individuals receiving PRS.

Accomplishments and Benefits

The final-form rulemaking establishes the minimum requirements for licensure of facilities where PRS is provided. These requirements will contribute to the development of a professionally-qualified and credentialed psychiatric rehabilitation workforce and will protect individual health and safety for those who receive PRS.

Fiscal Impact

Implementation of the final-form rulemaking will be cost neutral for the Commonwealth and will result in a small net cost to the regulated community. There are two new requirements with a fiscal impact on the regulated community: the requirement to obtain Certified Psychiatric Rehabilitation Practitioner (CPRP) certification for an additional staff member and the requirement that 25% of the full-time equivalent (FTE) staff complement be CPRP-certified. Under the 2001 Standards, 25% of the staff complement of a PRS agency needs to be CPRP-certified, thereby requiring at least one certified staff member per agency. The final-form rulemaking, however, requires that a PRS agency employ a PRS director and psychiatric rehabilitation specialist, both of whom need to be CPRP-certified, thereby increasing the minimum requirement to two CPRP-certified staff members per agency. Moreover, the final-form rulemaking requires that 25% of the FTE staff complement be CPRP-certified and a PRS agency may need additional CPRP certifications to comply with this requirement. The cost to obtain CPRP certification is approximately \$395 (registration and examination fee) per person.

Paperwork Requirements

Paperwork requirements for PRS licensure include the following: an agency service description; agency policies, procedures and daily schedules; contracts and letters of agreement; quality improvement documents; individual assessments; individual rehabilitation plans (IRP); daily entries and discharge summaries. The final-form rulemaking also establishes time frames for the completion of these paperwork

requirements. The paperwork requirements in the final-form rulemaking are the same as those in the 2001 Standards, except for the requirements for the agency service description. Each PRS agency must submit a new agency service description that complies with requirements in the final-form rulemaking under § 5230.15 (relating to agency service description). The Department will provide free technical assistance to agencies to facilitate this process.

Public Comment

Written comments, suggestions and objections regarding the proposed rulemaking were requested within a 30-day period following publication of the proposed rulemaking in the *Pennsylvania Bulletin*. In response to the proposed rulemaking, the Department received a total of 20 letters, emails and faxes representing 138 comments. These comments represented feedback from a broad spectrum of consumers, counties, providers and organizations such as Pennsylvania Community Providers Association (PCPA), Pennsylvania Association of Psychosocial Rehabilitation Services (PAPSRS) and the Philadelphia Collaborative. Additionally, the Department received comments from the Independent Regulatory Review Commission (IRRC).

Discussion of Major Comments and Changes

The following is a summary of the major comments received within the public comment period following publication of the proposed rulemaking and the Department's responses to these comments. A summary of additional changes to the final-form rulemaking is also included. In addition, the Department has filed a separate comment

and response document with IRRC, the legislative committees, the Legislative Reference Bureau and commentators to address all comments received. This document is available upon request.

General—fiscal impact

IRRC and two commentators inquired regarding the potential implementation costs to the regulated community. Specifically, they inquired regarding the costs of staff training, certification and general staffing requirements. The commentators recommended the Department consider these factors in the rate-setting process. IRRC recommended the Department provide a more detailed cost-benefit and fiscal impact analysis of the regulation that addresses the potential implementation costs anticipated by commentators.

Response

The fiscal impact section explains the implementation costs to the regulated community as a result of certification and general staffing requirements. Specifically, there are two new requirements with a fiscal impact on the regulated community: the requirement to obtain CPRP certification for an additional staff member, and the requirement that 25% of the FTE staff complement be CPRP-certified. These requirements are necessary to assure an adequately prepared professional staff and the health and safety of individuals receiving PRS. The CPRP certification is universally accepted by practicing members of the psychiatric rehabilitation community as the best available measure of the skills and competencies needed to provide effective PRS.

These qualifications were drafted after considerable discussion with stakeholders, including counties, BH-MCOs, providers and individuals receiving services.

There is no anticipated fiscal impact to the regulated community as a result of staff training requirements. USPRA requirements for CPRP certification are 45 training hours prior to taking the examination and 15 hours annually for recertification thereafter. The final-form rulemaking requires 18 hours of training annually for staff members. This requirement is also found in the 2001 Standards and, therefore, is not a new requirement. Trainings that satisfy the training requirements under the final-form rulemaking also satisfy USPRA training requirements, thereby assuring that CPRP-certified staff members who meet training requirements under the final-form rulemaking also meet training requirements for recertification by USPRA. Moreover, a PRS agency has 2 years to obtain CPRP certification for a psychiatric rehabilitation specialist, who must have 1 year of work experience in PRS upon hire, as required under § 5230.51(b)(1) (relating to staff qualifications). Therefore, a PRS agency has a total of 3 years to obtain the 45 training hours required for a psychiatric rehabilitation specialist to qualify to take the CPRP examination. During these 3 years, a psychiatric rehabilitation specialist will amass 54 training hours (18 hours per year x 3 years), thereby fulfilling the USPRA requirement. Therefore, a PRS agency will not need to plan for trainings beyond the 18 annual training hours to obtain the number of CPRP certifications needed to comply with the final-form rulemaking.

§ 5230.3 Definitions—licensed practitioner of the healing arts (LPHA)

IRRC and two commentators suggested that the Department specify those practitioners that meet the definition of “licensed practitioner of the healing arts.” IRRC also recommended the final-form rulemaking include a cross-reference to federal regulations, if any apply.

Response

The Department agrees and revised the final-form rulemaking to specify the licensed practitioners that meet the definition of an LPHA. For the purposes of this chapter, the definition of “LPHA” is limited to a physician, physician’s assistant, certified registered nurse practitioner and psychologist.

§ 5230.3 Definitions—natural support

IRRC recommended that the final-form rulemaking clarify how a person or organization will provide “validation” to an individual.

Response

The Department agrees that the term “validation” is vague. Therefore, the Department deleted the word “validation” from the definition of “natural support.”

§ 5230.3 Definitions—PRS facility

IRRC and two commentators observed that the use of the term “facility” is confusing in several sections of the proposed rulemaking that apply to the building where services are delivered. The term “facility” is defined differently throughout the *Pennsylvania Code* and, therefore, can refer to different types of entities. IRRC recommended the

Department explain the statutory authority for this definition and explain why use of the term “facility” is appropriate.

Response

The term “facility” is defined under 62 P.S. § 1001 to include a mental health establishment. A PRS facility is a mental health establishment.

The Department, however, realizes the definition of “facility” should be clarified. Therefore, the definition of “PRS facility” was revised to “the premises licensed by the Department for the delivery of PRS.” For additional clarity, the Department added the definition “PRS agency” as “an organization that operates a PRS facility licensed by the Department under this chapter.” These definitions are consistent with the definitions under Chapter 20 (relating to licensure or approval of facilities and agencies).

§ 5230.3 Definitions—psychiatric rehabilitation principles

IRRC recommends the final-form rulemaking list professional associations that are applicable to the definition of “psychiatric rehabilitation principles.”

Response

The Department revised the definition of “psychiatric rehabilitation principles” to include a list of professional organizations, which includes the USPRA, the ICCD and the Coalition for Community Living.

§ 5230.4 Psychiatric rehabilitation processes and practices

IRRC and a commentator recommended the final-form rulemaking clarify how the Department will measure “fidelity” to a PRS “approach.” The commentator stated that PRS is an approach in and of itself.

Response

The Department removed subsection (f) related to “fidelity” and revised subsection (e) to require that a PRS agency follow evidence-based practices (EBP) or best practices of the specific PRS approach identified in the agency service description. To comply with subsection (e), a PRS agency shall ensure that the assessment, the IRP and documentation of services delivered follow the rehabilitation methods of the specific PRS approach identified in the agency service description. Additionally, under § 5230.15(a)(5) (relating to agency service description), the final-form rulemaking requires that a PRS facility identified as a clubhouse be accredited by the ICCD within 3 years of licensing. PRS agencies will also be evaluated for compliance with training requirements of the specific approach designated in the service description.

§ 5230.13(5)(vi) Agency records—individual crisis management

A commentator inquired whether the requirement for a procedure that addresses crisis response is intended to include a 24-hour response.

Response

The intent is not to require 24-hour crisis response. Each agency shall develop procedures for individual crisis management to be administered during normal business hours of operation.

§ 5230.14(2) Physical site requirements

IRRC and commentators commented on the language about the provision of PRS in a location that is “distinct from other services offered simultaneously.” IRRC recommended the final-form rulemaking be clarified to allow PRS agencies to offer integrated services, or the Department should explain why such clarification is unnecessary.

Response

PRS is a separate and distinct service and as such, must be distinguishable for licensing and billing purposes from other mental health services that may be provided by the legal entity. The Department needs to ensure that distinct qualified staff, individual records and facility space are consistent with the licensing standards for each type of service. Although these are licensing regulations and not payment regulations, counties and BH-MCOs that will be providing funding for PRS need assurance that they are paying for a discrete service that is not comingled with another service. The Department agrees that this section needs clarification regarding the delivery of two different services in the same physical location. Therefore, the Department revised § 5230.14(2) to clarify that PRS is a distinct service from other mental health services in terms of service content and in terms of physical space utilized.

§ 5230.14(6) Physical site requirements—Occupational Safety and Health

Administration (OSHA) requirements

IRRC and a commentator requested further information on specific requirements for OSHA. IRRC also recommended that a cross-reference to the appropriate OSHA standard be specified.

Response

The Department determined that the requirement is unnecessary and has removed it. The section was renumbered accordingly. The requirement to assure infection control was added under § 5230.14(6)(iii).

§ 5230.21(3) Content of individual record—LPHA recommendation

Two commentators recommended that the Department's enforcement of the requirement for a recommendation by an LPHA reflect reasonableness and expediency and suggested that a signed statement from a psychiatrist be sufficient to meet the requirement. The commentators also suggested that the requirement would create challenges and delays in admissions.

Response

Subsection 5230.21(3) requires a recommendation from an LPHA. Under § 5230.3 (relating to definitions) an LPHA includes a physician, physician's assistant, certified registered nurse practitioner and psychologist. Since a psychiatrist is a physician, a recommendation from a psychiatrist meets this requirement. In addition, the Department will provide training and technical assistance related to the written recommendation requirement.

*§ 5230.22(2) Documentation standards and record security, retention and disposal—
individual identification on each page*

IRRC and a commentator inquired about the need to identify the individual on each page of the record. The commentator stated that the requirement is excessive.

Response

Identification of the individual on each page of the record is required under existing payment regulations under 55 Pa. Code § 1101.51(e)(1)(ii) (relating to ongoing responsibilities of providers). This requirement assures that individual information will be stored in the appropriate individual record for billing and confidentiality purposes.

*§ 5230.22(3) Documentation standards and record security, retention and disposal—
licensed provider*

IRRC and five commentators requested clarification of the term “licensed provider.”

Response

The Department agrees that this paragraph should be clarified. Therefore, the Department removed the term “licensed provider” and replaced it with the term “staff.”

*§§ 5230.22(4) and 5230.63 Documentation standards and record security, retention and
disposal—daily entry; daily entry*

The Department received eleven public comments objecting to the requirement for the daily entry and the requirement for the individual receiving PRS to sign daily entries in the PRS record of service. A commentator suggested the final-form rulemaking be

revised to require a monthly progress note and not a daily note. IRRC suggested the Department explain the need for daily entries.

Response

The requirement to indicate progress at each visit is an existing requirement under 55 Pa. Code § 1101.51(e)(1)(vi) (relating to ongoing responsibilities of providers). This requirement is also consistent with the Medicaid payment regulation under Chapters 1101 (relating to general provisions) and 1150 (relating to MA program payment policies). Since the record is required to indicate the individual's progress at each visit, a daily entry is required. The daily entry also ensures accountability and verification that the service is being provided. Further, the agency shall obtain the individual's signature on the daily entry or shall document the reason if the individual does not sign. This ensures that the individual is actively involved in documentation of daily services.

In addition, the Department will supply a sample format for the daily entry that meets the requirements of this section. The sample is an outline in check-off format with space for a brief narrative comment, if necessary.

§ 5230.31 Admission requirements—exception process

Commentators and IRRC noted that the proposed rulemaking does not contain an exception process for individuals who do not meet eligibility requirements related to diagnoses. The commentators also suggested that the allowed diagnostic categories be broader.

Response

The Department agrees with the commentators' suggestion to allow an exception process for diagnostic eligibility. The definition of "adults with serious mental illness," as published by the Center for Mental Health Services in the Federal Register on May 20, 1993, includes persons 18 years and over who currently or at any time during the past year, have had a diagnosable mental, behavioral or emotional disorder of sufficient duration to meet diagnostic criteria specified within DSM-III-R that has resulted in functional impairment which substantially interferes with or limits one or more major life activities. Therefore, subsection (c) has been added to include a diagnostic exception.

§ 5230.51 Staff qualifications—PRS director and psychiatric rehabilitation specialist

Commentators inquired whether the Department will be "grandfathering" existing PRS directors who do not meet the educational degree requirements listed in this section. These comments, however, supported the requirement for the bachelor's degree for PRS directors who are newly hired. In addition, some commentators argue that that these requirements are too stringent and may result in recruiting issues. The comments expressed that the loss of existing PRS directors due to new qualification requirements is not fair to those performing in a competent way and is not in the best interest of the field of PRS.

Conversely, a commentator recommended raising the qualifications for both the PRS director and the psychiatric rehabilitation specialist to require a Master's degree and a current clinical license issued by the Commonwealth of Pennsylvania.

In addition, IRRC requested an explanation of how the qualifications were established for both the PRS director and the psychiatric rehabilitation specialist.

Response

During the workgroup process, the Department reviewed stakeholders' input and researched PRS practices in several other states to develop PRS staff qualifications. Consideration was given to balancing education, experience and certification to ensure adequately trained staff are providing PRS. The Department agrees, however, that one-time "grandfathering" is appropriate for a PRS director who has a CPRP certification and a minimum of an associate of arts degree and who was employed as a PRS director in a Department-licensed PRS facility at least 6 months immediately prior to the date of final publication of the regulation. Therefore, the Department has revised subsection (a) to allow one-time "grandfathering" of a PRS director who meets these requirements.

§ 5230.51(a) and (b)(2) Staff qualifications—CPRP certification

Three commentators stated that in some situations, more than 2 years is needed for existing PRS staff employed as PRS directors or psychiatric rehabilitation specialists to obtain the CPRP credential. The commentators recommended that waivers or exceptions be used in these circumstances. In addition, a commentator stated that the requirement for CPRP certification will make recruitment and retention difficult, particularly in rural areas. IRRC and the commentator inquired whether existing staff who do not meet this requirement could be "grandfathered."

IRRC also asked whether the Department has considered the options of waiver or exception processes for this requirement.

Response

The Department gave consideration to balancing education, experience and certification to ensure that PRS staff members are adequately qualified. Staff qualifications that require the CPRP certification are consistent with the 2001 Standards. The Department adopted the workgroup recommendation that 2 years is a sufficient amount of time for a candidate to achieve CPRP certification. Since this standard has been in place for 10 years, the Department disagrees that this requirement creates a new barrier to staff recruitment and retention.

While the Department is sensitive to the unique needs of rural areas, it disagrees with the comment that retention and recruitment are difficult in these areas. The Department has supported the initiative sponsored by the Pennsylvania Association of Psychosocial Rehabilitation Services (PAPRSRS) to provide the CPRP preparation course statewide and has contracted with an academic vendor to provide training in PRS that is approved by USPRA. As a result, current data shows that Pennsylvania has the largest CPRP-certified workforce in the nation with 503 CPRP-certified professionals. Additionally, as of 2012, 38 (75%) of the 51 rural counties in the Commonwealth operate at least one licensed PRS facility with at least one CPRP-certified professional on agency staff. Therefore, this requirement does not appear to be a barrier.

Further, there is currently limited availability of educational degree programs specific to psychiatric rehabilitation. The CPRP certification is universally accepted by practicing

members of the psychiatric rehabilitation community as the best available measure of the skills and competencies needed to provide effective PRS. Although the Department considered the possibility of “grandfathering” experienced psychiatric rehabilitation staff that lack the CPRP certification, the Department decided against this measure to avoid the risk of adversely affecting the quality of the service.

§ 5230.51(c)(3) Staff qualifications—Certified Peer Specialist (CPS) certificate

The Department received five recommendations that a staff member with a CPS certificate be allowed to work alone in the community without additional supervision or work experience.

Response

The Department disagrees with the recommendation of the commentators to allow a staff member with a CPS certificate but no additional work experience to provide PRS independently. Current language for staff qualifications ensures a level of understanding of PRS principles and practices to maintain the integrity of the profession. A staff member with a CPS certificate and no additional work experience is qualified to work as a psychiatric rehabilitation assistant. The psychiatric rehabilitation assistant position is specifically designed as an opportunity for someone inexperienced in PRS to gain entry into the field. Under § 5230.52(d) (relating to general staffing requirements), a psychiatric rehabilitation assistant must be accompanied by a psychiatric rehabilitation specialist or psychiatric rehabilitation worker when service is delivered. When a staff member with a CPS certificate is employed as a psychiatric rehabilitation assistant and gains the necessary training and experience required under

subsection (c), that staff member is eligible to be a psychiatric rehabilitation worker. As specified under § 5230.52(d), a psychiatric rehabilitation worker may work alone in the community.

§ 5230.52(c) General staffing requirements—staff complement

IRRC and commentators recommended that a staff complement based on attendance during each shift is more feasible than average daily attendance.

Response

The Department agrees with the comment and removed the phrase “based upon average daily attendance” in the final-form rulemaking under § 5230.52(c). The PRS agency shall maintain a corresponding staff schedule that demonstrates compliance with the required 1:10 ratio. Further, there is no requirement that group service provided in the facility be comprised of at least ten individuals; rather, the requirement is that there is at least one staff present for every ten individuals in the facility.

PRS agencies need to record utilization data and maintain work schedules to distinguish facility-based staff members from those staff who provide services in the community. If a PRS agency elects to provide services in the community, it is necessary to assure that there is a sufficient number of staff present in the facility to meet the needs of the individuals being served in the facility.

§ 5230.52(d) General staffing requirements—psychiatric rehabilitation worker

The Department received two suggestions that a psychiatric rehabilitation worker should be able to work alone in the community without a psychiatric rehabilitation specialist or CPRP-certified staff member.

Response

Under subsection (d), a psychiatric rehabilitation worker may work alone. This subsection states, “when a service is delivered, a PRS agency shall schedule a psychiatric rehabilitation specialist or psychiatric rehabilitation worker to be present.”

§ 5230.52(e) General staffing requirements—deployment of staff

The Department received one comment suggesting that the term “deployment of staff for community services” is awkward and may be interpreted as something other than what was intended.

Response

The Department agrees that the phrase “deployment of staff for community services” needs to be clarified. Therefore, the Department has revised the language to “deployment of staff for PRS delivered in the community.”

§ 5230.52(h) General staffing requirements—psychiatric rehabilitation specialist qualifications

IRRC and a commentator requested clarification on the definition of “specialist criteria.”

Response

The phrase “specialist criteria” refers to the qualifications that a staff member is required to meet to be considered a psychiatric rehabilitation specialist. The Department revised subsection (h) to clarify the requirement.

§ 5230.52(h) and (i) General staffing requirements—CPRP certification

IRRC and two commentators inquired about the requirement that a minimum 25% of the FTE staff complement hold the CPRP certification within 2 years of initial licensing. The commentators suggested that this requirement would be costly and might create undue noncompliance issues for agencies due to staff turnover.

IRRC and the commentators also inquired about the need for a minimum 25% of the FTE staff complement to be a psychiatric rehabilitation specialist within 1 year of initial licensing.

Response

Under the 2001 Standards, PRS agencies need to have 25% of the staff complement certified as a CPRP within 2 years of initial licensing. The final-form rulemaking requires that 25% of the FTE staff complement be CPRP-certified within 2 years of initial licensing. An explanation of the cost implications of this new requirement is included in the fiscal impact section.

Requiring that 25% of the FTE staff complement be CPRP-certified will assure quality supervision and adherence to Nationally-recognized PRS principles and practices as established by USpra. A new PRS agency has 2 years to engage in staff development, including obtaining the required qualifications and certification. When a

PRS agency has been in operation for 2 years from initial licensing, the agency will need to plan for turnover to ensure that 25% of FTE staff are CPRP-certified.

Under the 2001 Standards, 25% of the staff complement must meet the qualifications for a psychiatric rehabilitation specialist within 1 year of initial licensing. The final-form rulemaking requires that 25% of the FTE staff complement meet the qualifications for a psychiatric rehabilitation specialist within 1 year of initial licensing. Similar to the 25% CPRP requirement, this requirement will ensure quality supervision and adherence to USPRA principles.

§ 5230.52(i) General staffing requirements—25% CPRP requirement

A commentator identified that agencies may fall in and out of compliance with the requirement to have 25% of the FTE staff complement CPRP-certified and asked how the Department plans to evaluate or assess this factor in licensing and audits.

Response

The Department will review the staff complement of a PRS agency during the annual licensure review. The Department will address an instance of noncompliance under the licensing procedures specified under Chapter 20 (relating to licensure or approval of facilities and agencies).

§ 5230.54(a)(2) Group services—group size in the community

IRRC and five commentators noted that there is lack of clarity regarding the limit on group size for services delivered in the community.

Response

The Department agrees and has revised paragraph (a)(2). As revised, this paragraph provides, “when a service is delivered in the community, one staff shall serve a group of no more than five individuals. Group size in the community shall not exceed five individuals.”

§ 5230.55(c) and (d) Supervision—frequency and style

Commentators expressed concern regarding § 5230.55(c), related to frequency and style of supervision, suggesting that it is too prescriptive. IRRC suggested the Department explain the need for this face-to-face supervision requirement.

A commentator also suggested that the word “additional” be removed from subsection (d) because it is confusing.

Response

The 2001 Standards require weekly supervision; however, they do not specify the style of supervision required, that is, whether it should be conducted individually or in groups or if it should be conducted face-to-face. On the other hand, the final-form rulemaking requires individual face-to-face supervision no less than two times per calendar month in addition to group supervision. Group supervisory methods are listed under subsection (d).

The Department recognizes the value of both individual face-to-face and group supervisory methods. Supervisory activities involve monitoring service delivery and addressing personnel matters, which makes individual face-to-face supervision necessary. The final-form rulemaking offsets the new more stringent requirement for

individual face-to-face supervision no less than two times per calendar month by not prescribing a minimum frequency for group supervision and by not mandating that it be face-to-face. The final-form rulemaking grants the PRS agency flexibility to conduct group supervision in a frequency and style that best meets agency need.

The Department agrees with the commentator that the word “additional” is confusing and deleted the word “additional” from subsection (d). To further clarify, the Department revised the subsection to specify the required group supervision methods.

§ 5230.55(c) and (d) Supervision—psychiatric rehabilitation specialist supervision

One comment was received suggesting that a psychiatric rehabilitation specialist be able to provide group supervision under subsection (d) to maintain consistency with subsection (c).

Response

The Department agrees and revised subsection (d) to allow the psychiatric rehabilitation specialist to provide group supervision.

§ 5230.55(e) Supervision—annual evaluation

The Department received one comment regarding the requirement for the PRS director to annually evaluate staff. The commentator inquired whether it is permissible to delegate the supervisory function to the psychiatric rehabilitation specialist to whom other supervisory functions are already delegated.

Response

The requirement for the PRS director to annually evaluate staff may be delegated to a psychiatric rehabilitation specialist designated as a supervisor. The PRS director, however, has the ultimate responsibility for the service and is required to review and sign all staff evaluations. The Department has revised subsection (d) to reflect this.

§ 5230.56 Staff training requirements

The Department received comments regarding concerns about the cost and availability of approved training and scheduling issues related to staff attendance at training.

Response

In response to the commentators, the Department revised paragraph (3)(i) to reduce the requirement from 8 hours to 6 hours of training in the specific PRS model or approach prior to new staff working independently. This revision allows agency staff to complete the requirement in one business day. Further, the 6 hours of training in the model or approach is required in the first year only.

Six hours of face-to-face mentoring is required in the first year only and is a separate supervisory function. Mentoring can be provided by the PRS director or a psychiatric rehabilitation specialist designated as a supervisor.

Only the 12-hour psychiatric rehabilitation orientation course is required to be obtained from a Department-approved trainer, as specified under paragraph (1). The 12-hour orientation course counts toward the 18-hour annual training requirement. Additional training may be obtained through a combination of both in-service and out-

service sources, including conferences, webinars and Department-sponsored training. Twelve of the 18 hours of required annual training must focus on psychiatric rehabilitation or recovery practices, or both.

As previously provided, CPRP certification is required for the PRS director and the psychiatric rehabilitation specialist within 2 years of hire under § 5230.51 (relating to staff qualifications). Both employee certification and training costs are the responsibility of the agency or staff member. The cost of CPRP registration and examination is approximately \$395 per person.

§ 5230.56 Staff training requirements—training resources

The Department received comments about the need to identify training resources and a question about whether the PRS agency can provide the training internally.

Response

Training resources can include a variety of national, statewide and internal sources, such as conferences, seminars, webinars, in-service training, college courses and web-based training. In addition, the Department has contracted with an academic vendor to offer approved courses at no charge to the agency. Training can be offered internally provided that there is a content outline for the training that has learning objectives, as specified under paragraph (4).

§ 5230.61(b) Assessment—updates

IRRC and commentators requested clarification of the requirement for updates of the assessment. In addition, several commentators stated that the requirement under paragraph (b)(7)(ii) is excessive.

Response

The Department agrees and removed the word “objective” under paragraph (b)(7)(ii) in the final-form rulemaking. In addition, the requirement is for an update, not an entirely new assessment document. The assessment is intended to be an ongoing process, and the assessment form is intended to be a working document that can be updated when changes occur. The Department did not prescribe particular forms, but will provide sample forms.

§ 5230.62 Individual rehabilitation plan

IRRC and commentators requested clarification of the requirement for review and revision of the IRP. Several commentators also stated that the requirement for a revision to the IRP when a goal is completed is excessive. A commentator also suggested that revising the IRP interrupts the flow of the psychiatric rehabilitation process. IRRC also inquired whether to “revise” means to rewrite the IRP completely or simply to provide relevant updates to the existing plan.

Response

The requirement to review and revise the IRP is to update the IRP and is not intended to entail an entirely new IRP document. To clarify this, the Department revised subsection (c) to provide that “a PRS agency and an individual shall update the IRP.”

Psychiatric rehabilitation planning is intended to be an ongoing process based upon a current assessment. The IRP is intended to be a working document that can be updated when changes occur. The Department agrees that the requirement to revise the IRP when an objective is completed should be removed from § 5230.62(c). Therefore, the Department has deleted paragraph (c)(2) and renumbered the remainder of the list accordingly.

§ 5230.63 Daily entry—limited English proficiency

The Department received a comment about daily entry requirements, expressing concern about individuals who are not literate or whose first language is not English.

Response

The Department appreciates this concern. The requirement for a daily entry is the responsibility of the agency. PRS requires substantial individual participation and collaboration with agency staff. As specified under § 5230.52(j) (relating to general staffing requirements), PRS is required to be delivered in a way that can be accessed by the individual. As specified under § 5230.23 (relating to access to individual record), the individual must be given the opportunity to provide input into services through review of the record and provision of written comment in the record. If an individual does not speak or is not literate in English, the PRS agency shall make accommodations for the individual's language needs. For service records kept in a language other than English, the agency will need to provide interpretation at the time of any inspection or record review.

§ 5230.71 Discharge

The Department received two comments regarding the difficulty in planning next steps for individuals who terminate participation without notice. IRRC also suggested the Department explain how the requirement will be met.

Response

If an individual disengages from PRS, the daily entry should indicate the disengagement and efforts to contact and reengage the individual as required under paragraph (f)(1). The discharge summary should also address the circumstances and rationale for discharge. If aftercare planning was not completed, this should be documented as required under paragraph (f)(2).

§ 5230.72 Discharge summary

The Department received one comment indicating “it is difficult to offer a summary to an individual who chooses not to participate or be available.” IRRC also inquired how this requirement will be met under this circumstance.

Response

The intent of this section is to offer the individual an opportunity to comment. If the individual chooses to disengage prior to being given that opportunity and re-engagement efforts are not successful, it should be documented in the discharge summary.

Additional Changes

The Department revised § 5230.31(2) (relating to admission requirements) to remove the term “psychiatrist” and replace it with “licensed practitioner of the healing arts,” thereby allowing a physician, physician’s assistant, certified registered nurse practitioner or psychologist to provide a diagnosis for the purpose of determining eligibility for PRS. The Department recognizes the improved flexibility and streamlining of operations that this affords a PRS agency and the simplified access to PRS that it affords an individual.

In addition to the changes previously discussed, the Department corrected typographical errors, reformatted for enhanced readability and revised language for improved clarity.

Regulatory Review Act

Under § 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)), on **NOV 14 2012** the Department submitted a copy of this regulation to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Human Services and the Senate Committee on Public Health and Welfare. In compliance with the Regulatory Review Act the Department also provided the Committees and the IRRC with copies of all public comments received, as well as other documentation.

In preparing the final-form regulation, the Department reviewed and considered comments received from the Committees, the IRRC and the public.

In accordance with § 5.1 (j.1) and (j.2) of the Regulatory Review Act, this regulation was deemed approved by the Committees on _____ . IRRC met on _____ and approved the regulation.

In addition to submitting the final-form rulemaking, the Department has provided the IRRC and the Committees with a copy of a Regulatory Analysis Form prepared by the Department. A copy of this form is available to the public upon request.

Order

The Department finds:

- (a) The public notice of intention to adopt the administrative regulation by this Order has been given pursuant to §§ 201 and 202 of the Commonwealth Documents Law (45 P.S. §§ 1201 and 1202) and the regulations at 1 Pa. Code §§ 7.1 and 7.2.
- (b) That the adoption of this regulation in the manner provided by this Order is necessary and appropriate for the administration and enforcement of the Public Welfare Code.

The Department acting pursuant to 62 P.S. §§ 901—922 and 1001—1059 orders:

- (a) The regulation of the Department is adopted to read as set forth in Annex A of this Order.
- (b) The Secretary of the Department shall submit this Order and Annex A to the Offices of General Counsel and Attorney General for approval as to legality and form as required by law.

- (c) The Secretary of the Department shall certify and deposit this Order and Annex A with the Legislative Reference Bureau as required by law.
- (d) This order shall take effect 90 days after the date of final publication.

Chapter 5230: Psychiatric Rehabilitation Services

Comment and Response Document

General—fiscal impact—cost neutrality

The Department of Public Welfare (Department) received one comment asserting that psychiatric rehabilitation services (PRS) would not be cost neutral based upon the number of medical assistance-eligible persons with serious mental illness who are currently using social rehabilitation (SR) and supported living (SL) programs.

Response

The Department disagrees with the statement that utilization rates for these alternate services would negatively affect the cost neutrality of PRS. SR or SL providers are not required to provide PRS. PRS is distinct from SR and from SL services. Further, SR and SL services are not included in the scope of PRS. To the extent that limited SR or SL services might be offered in addition to PRS, the hours devoted to these services would not be billable as PRS. Thus, the costs for delivering these alternate services are not appropriate for inclusion in a PRS cost analysis, since they are separate and distinct from PRS.

General—supported employment

A commentator inquired whether supported employment (SE) programs meet the requirements under the final-form rulemaking. The commentator also inquired if the final-form rulemaking will incorporate more best practices from SE as an evidence-based model program.

Response

PRS is distinct from SE services and SE services are not included in the scope of PRS. To the extent that limited SE services might be offered in addition to PRS, the hours devoted to these services would not be billable as PRS.

General—social rehabilitation

The Department received a comment in support of the need for PRS in the Commonwealth. This comment validated the distinctions between PRS and SR or SL services.

Response

The Department concurs that PRS is distinct from SR and SL services and that SR and SL services are not included in the scope of PRS. PRS is an efficient and cost-effective option that offers individuals an opportunity to recover from functional losses resulting from serious mental illness. PRS outcomes will allow individuals to fully participate in chosen roles in living, learning, working and socializing in the community.

§ 5230.3 Definitions—PRS and psychiatric rehabilitation principles

The Department received one comment objecting to the capitalization of the word “Nationally” as used in the definitions of “PRS” and “psychiatric rehabilitation principles.”

Response

The word “Nationally” remains capitalized in the final-form rulemaking.

§ 5230.4 Psychiatric rehabilitation processes and practices

The Department received one comment regarding the inconsistency between providing PRS concurrently with clinical treatment and providing PRS distinct from other services.

Response

PRS is a separate and distinct service. An individual may participate in PRS even though the individual also receives other mental health services. However, PRS and another mental health service cannot be billed to Medicaid within the same unit of time. The Department revised the final-form rulemaking under subsection (d) to clarify that an individual can receive PRS in addition to other mental health services.

§ 5230.4 Psychiatric rehabilitation processes and practices

The Department received one comment asserting that “a site-based PRS may from time to time require the ability to serve individuals in a community setting, in support of practicing the skills learned on-site and thus in furtherance of their goals.”

Response

The Department agrees. A provision for this was included in the proposed rulemaking and remains in the final-form rulemaking under subsection (f) (formerly designated as subsection (g)).

§ 5230.11 Organizational structure

The Department received four comments requesting clarification of the requirement for a PRS advisory board. The commentators inquired whether a legal entity’s advisory

board that includes individuals and families who utilize mental health services meets the requirement or if a separate advisory board should be established for the PRS agency.

Response

A PRS agency may establish its own advisory board or utilize the advisory board of the legal entity to meet the requirement. The PRS agency shall ensure participation of individuals and families who use mental health services on the advisory board and shall also ensure that members of the advisory board have been provided with an overview of PRS processes and practices. The Department revised § 5230.11 to clarify the requirement.

§ 5230.13(6)(iii) Agency records—transportation policy

A commentator inquired if the agency is required to have a specific transportation policy.

Response

Agencies proposing to transport individuals are required to have transportation policies and procedures.

§ 5230.13(6)(vi) Agency records—employee time sheets

A commentator inquired regarding the requirement to maintain employee time sheets.

Response

Employee time sheets document compliance with minimum staffing requirements and, therefore, shall be maintained to verify compliance.

§ 5230.15 Agency service description

A commentator expressed concern that conflicts may arise between requirements in the proposed regulation and the prescriptive nature of PRS approaches, such as clubhouse, Boston University and other evidence-based practices (EBP). The commentator recommended that the Department recognize this possibility and make provision for exceptions or waivers to reconcile any conflicts.

Response

Should conflicts arise between the final-form rulemaking and PRS approaches, the Department included a waiver provision under § 5230.91 (relating to request for waiver).

§ 5230.31(a)(3) Admission requirements—functional impairment

The Department received one comment that the term “functional impairment” is not strengths-based, not recovery-oriented, not consistent with the professional literature and is used inappropriately when applied to roles. The commentator inquired whether there will be a further definition of the term and asked who can make the determination that an individual has a functional impairment.

Response

The Department maintains that the proper term is “functional impairment,” but agrees that “impairment” is used inappropriately in respect to roles. Therefore, the Department revised the definition of “functional impairment” under § 5230.3 (relating to definitions) to eliminate the words “and roles.”

The Department agrees that it is necessary to establish the existence of a functional impairment as one element to establish eligibility for PRS. For individuals who meet diagnostic requirements under subsection (a), the functional impairment is identified by the individual and the PRS staff during the individual assessment. For individuals who meet eligibility requirements by exception under subsection (c), the determination that a functional impairment exists must be made by the licensed practitioner of the healing arts (LPHA). Further, the PRS agency shall document the functional impairment in the individual assessment. The Department will provide a sample tool for determining functional impairment in the individual assessment.

§ 5230.31(b) Admission requirements—assessment of functional impairment

A commentator suggested that the assessment of functional impairment be conducted by CPRP-certified staff.

Response

The Department does not agree. For individuals who meet diagnostic requirements under subsection (a), the functional impairment shall be identified by staff with knowledge of the individual's present level of functioning. For individuals who meet eligibility requirements by exception under subsection (c), the determination that a functional impairment exists must be made by the LPHA who is recommending the service.

§ 5230.33 Discharge requirements

A commentator suggested that the PRS agency should be able to perform an administrative discharge for individuals who disregard minimum participation requirements or member-determined guidelines for respectful behavior.

Response

A PRS agency may not establish minimum participation requirements as this would violate the provision under § 5230.4(c)(1) (relating to psychiatric rehabilitation processes and practices), which requires that a PRS agency maintain a recovery-oriented environment consistent with psychiatric rehabilitation principles. Moreover, in the instance that an individual discontinues service participation, the requirement under § 5230.4(c)(10) provides that the PRS agency reach out and attempt to re-engage the individual. To ensure that a PRS agency establishes discharge policies and procedures that follow psychiatric rehabilitation principles, the Department revised § 5230.15(a)(14) (relating to agency service description) to require a PRS agency to include admission and discharge policies and procedures in the agency service description.

§ 5230.42 Nondiscrimination

A commentator suggested that the wording “sexual orientation or gender identity or expression” is unnecessary and inappropriate.

Response

The Department has elected to maintain this language. The inclusion of this language ensures that individuals and staff from these populations are not subject to discrimination.

§ 5230.51 Staff qualifications

The Department received one comment suggesting that § 5230.51 should include “ands” and “ors” that provide options to improve the agency’s ability to attain and maintain licensure.

Response

There are several options listed in the numbered items in each subsection to meet staff qualifications for each staff category. The concept of “or” is implied in the opening statement: “shall have one of the following.”

§§ 5230.53 and 5230.54 Individual and group services

The Department received a comment requesting additional information about billing and codes for §§ 5230.53 and 5230.54.

Response

The final-form rulemaking is a licensing regulation, not a payment regulation. PRS agencies should seek coding and billing information from the appropriate funding source, such as the behavioral health managed care organization (BH-MCO).

§ 5230.54(a)(1) Group services—one-to-ten ratio

The Department received two comments regarding the ratio of staff to individuals in clubhouse programs, suggesting that the 1:10 ratio may present limitations and is not required by the International Center for Clubhouse Development (ICCD).

Response

The 1:10 ratio was recommended by the workgroup that drafted the proposed regulatory language. Further, this requirement is consistent with the PRS Medical Necessity Criteria and Standards-Revised, which were issued in 2001. Although the Department recognizes that the ICCD standards for clubhouses do not require minimum staffing levels, the final-form rulemaking applies to all PRS approaches. The 1:10 ratio requirement assures that a PRS facility is adequately staffed to meet the needs of the individuals being served, regardless of the PRS approach utilized by the facility.

§ 5230.54(a)(1) Group services—facility

A commentator stated that the phrase “when a group service is provided in a facility” should read “when a group service is provided on-site.”

Response

As provided in the Preamble, the Department revised the definition of “PRS facility.” To clarify paragraph (a)(1), the Department revised the language to, “when a group service is provided in a PRS facility.”

§ 5230.54(b) Group services—goals

A commentator inquired about the requirement that individuals working in groups must have similar goals, stating that clubhouse participants often have very different goals from one another.

Response

The Department agrees and revised § 5230.54(b) to accommodate differences in goals among group participants.

§ 5230.54(c) Group services—personal preferences

A commentator suggested that the requirements under § 5230.54(c) regarding personal preferences, consent and confidentiality when delivering services in a group in the community are cumbersome, not recovery-oriented and unnecessarily prescriptive.

Response

The Department included this requirement to assure the integrity and confidentiality of the service and developed it in consultation with the workgroup and a national expert in PRS. Further, this section balances the maximum group size of five individuals with the need to assure accountability for services delivered in the community.

§ 5230.54(f) and (g) Group services—confidentiality

A commentator suggested that the language under § 5230.54(f) would be subject to a variety of interpretations and that sufficient communication is needed during the community experience. A commentator also suggested that the phrase “in the privacy of the facility” as used under § 5230.54(g) is impractical and not in the best interest of community integration approaches.

Response

The Department agrees that communication is necessary while providing services in the community. However, a PRS agency must design services in the community to

protect an individual's confidentiality. The Department revised subsection (f) to clarify this requirement. The Department also revised subsection (g) to assure confidentiality without requiring a return to the facility.

§ 5230.56 Staff training requirements—training vendors

The Department received a comment requesting a list of the approved sources for the 12-hour psychiatric rehabilitation orientation course.

Response

There are two training vendors the Department has approved to provide the 12-hour psychiatric rehabilitation orientation course: Drexel University and the Pennsylvania Association of Psychosocial Rehabilitation Services (PAPSRS).

§ 5230.61 Assessment

Commentators suggested that this section on assessment is redundant with the section on the individual rehabilitation plan (IRP). The commentators maintained that the assessment is an ongoing process that is reflected in the IRP and daily notes as opposed to a separate process.

Response

The Department disagrees. An assessment is a foundational summary of an individual's functioning in the living, learning, working and socializing domains. An IRP is developed from an assessment and specifies goals the individual chooses to work towards. The assessment and IRP are complementary, but distinct. The daily entry documents progress toward the realization of goals.

§ 5230.62(a)(7) *Individual rehabilitation plan—signatories*

Several commentators inquired whether the PRS director is expected to sign off on all IRPs or whether this function can be delegated to a psychiatric rehabilitation specialist.

Response

As specified under paragraph (a)(7), the PRS director shall review and sign all IRPs. The Department revised paragraph (d)(7) to be consistent with the signature requirements under paragraph (a)(7).

Annex A

TITLE 55. PUBLIC WELFARE

PART VII. MENTAL HEALTH MANUAL

Subpart D. NONRESIDENTIAL AGENCIES/FACILITIES/SERVICES

CHAPTER 5230. PSYCHIATRIC REHABILITATION SERVICES

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ADMISSION, CONTINUED STAY AND DISCHARGE REQUIREMENTS

§ 5230.31. Admission requirements.

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§ 5230.41. PRS statement of rights.

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§ 5230.43. [Complaint, grievance and appeal procedures] Complaints.

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§ 5230.53. Individual services.

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SERVICE PLANNING AND DELIVERY

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QUALITY IMPROVEMENT

§ 5230.81. Quality improvement requirements.

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§ 5230.91. Request for waiver.

GENERAL PROVISIONS

§ 5230.1. Purpose.

The purpose of this chapter is to establish requirements for the licensing of facilities providing PRSs.

§ 5230.2. Scope.

This chapter applies to PRS [facilities] agencies as defined in this chapter and contains the minimum requirements that shall be met to obtain a license to operate a PRS facility.

§ 5230.3. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Axis I—One of five dimensions relating to different aspects of the diagnosis of a psychiatric disorder or disability as organized in the DSM-III-R. Axis I specifies clinical disorders, including major mental disorders.

BH-MCO—Behavioral health managed care organization—An entity that manages the purchase and provision of mental health and substance abuse services.

Best practice—Service delivery practice based directly on principles and standards that are generally recognized by a profession and are documented in the professional literature.

CPRP—Certified Psychiatric Rehabilitation Practitioner—A person who has completed the required education, experience and testing, and who is currently certified as a Certified Psychiatric Rehabilitation Practitioner by the USPRA.

CPS certificate—[Certified peer specialist] Certified Peer Specialist certificate—A certificate awarded to a person who has successfully completed the Department-approved training in peer support [service and is currently certified as a CPS] services.

Clubhouse—A [psychiatric rehabilitation program] PRS facility that is accredited by the ICCD.

[Community support principles—The set of accepted principles for delivery of community mental health services developed by the Department and recognized by the Community Support Program of Pennsylvania.]

Coordination of care—Direct contact by a PRS [facility] agency with other [behavioral] mental health, physical health or human service formal and natural supports, to assure continuity in service planning between service [facilities] agencies.

County [MH/MR] MH/ID administrator—The [Mental Health/Mental Retardation] Mental Health/Intellectual Disability administrator who has authority in the geographic area.

Culturally competent—The ability to provide service in a manner that shows awareness of and is responsive to the beliefs, interpersonal styles, attitudes, language and behavior of an individual and family who are referred for or receiving service.

Department—The Department of Public Welfare of the Commonwealth.

Discharge—Discontinuation of service to an individual [that is based upon established requirements].

DSM-III-R—Diagnostic and Statistical Manual of Mental Disorders, Third Edition, Revised.

EBP—Evidence based practice—Service delivery practice identified, recognized[,] and verified by research and empirical data to be effective in producing a positive outcome and supporting recovery.

FTE—Full-time equivalent—37.5 hours per calendar week of staff time.

Face-to-face—Contact between two or more people that occurs at the same location, in person.

[*Fidelity*—The degree to which a system accurately adheres to the specified principles of evidenced based or best practice.]

Formal support—An agency, organization or person who provides assistance or resources to others within the context of an official role.

Functional impairment—The loss or abnormality of the ability to perform necessary tasks [and roles].

GED—Graduate Equivalency Diploma.

Goal—The purpose of the rehabilitation service as identified by the individual.

Human services—Programs or facilities designed to meet basic health, welfare and other needs of a society or group.

ICCD—International Center for Clubhouse Development.

ICD-9—International Classification of Diseases, Ninth Edition.

IRP—*Individual rehabilitation plan*—A document that describes the current service needs based on the assessment of the individual[,] and identifies the individual's goals, interventions to be provided, the location, [intensity] frequency and duration of services, and staff who will provide the service.

Individual—A person, 18 years or older who has a functional impairment resulting from mental illness, who uses PRS.

LPHA—Licensed practitioner of the healing arts—An individual licensed by the Commonwealth to practice the healing arts, which for the purposes of this chapter shall be limited to a physician, physician's assistant, certified registered nurse practitioner and psychologist.

Legal entity—A person, society, corporation, governing authority or partnership legally responsible for the administration and operation of a PRS facility or a PRS agency.

[*Licensed practitioner of the healing arts*—Those professional staff currently recognized by the Department as qualified to recommend an individual for service.]

MA—Medical Assistance.

Mental health direct service—Working directly with an individual to provide a mental health service.

Natural support—A person or organization selected by an individual to provide [validation,] assistance or resources in the context of a personal or nonofficial role.

Outcome—[The] An observable and measurable result of [rehabilitation service]

PRS.

PRS—Psychiatric rehabilitation service—A recovery-oriented service offered individually or in groups which is predicated upon the principles, values and practice standards of the ICCD, USpra or other Nationally-recognized professional PRS association.

PRS agency—An organization that operates a PRS facility licensed by the Department under this chapter.

PRS facility—[An agency or organization licensed by the Department to deliver PRS] The premises licensed by the Department for the delivery of PRS.

Psychiatric rehabilitation principles—A list of core values inherent in psychiatric rehabilitation as defined by Nationally-recognized professional associations, including the USpra, the ICCD, and the Coalition for Community Living.

QI plan—*Quality improvement plan*—A document outlining the ongoing formal process to assure optimal care and maximize service benefit as part of the licensing process.

USPRA—The United States Psychiatric Rehabilitation Association.

§ 5230.4. Psychiatric rehabilitation processes and practices.

(a) A PRS [facility] agency shall assist an individual to develop, enhance[,] and retain skills and competencies in living, learning, working and socializing so that an individual can live in the environment of choice and participate in the community.

(b) A PRS [facility] agency shall use the PRS process in delivering PRS. The PRS process consists of three phases:

(1) *Assessing phase.*

(i) Developing a relationship and trust.

(ii) Determining individual readiness for rehabilitation.

(iii) [Mutual] Completing mutual assessment of needs.

(iv) Goal setting.

(2) *Planning phase.*

(i) Prioritizing needed and preferred skills and supports.

(ii) Planning for resource development.

(3) *Intervening phase.*

(i) Developing new skills.

(ii) Supporting existing skills.

(iii) Overcoming barriers to using skills.

(iv) [Creating] Identifying or modifying an individual's resources to pursue a goal.

(c) A PRS [facility] agency shall ensure that [staff training, provider and individual records include] the following practices are included in programming and staff training and in agency and individual record maintenance:

(1) Creating a culturally competent, [recovery oriented] recovery-oriented [PRS] environment consistent with [Nationally-recognized values and practice standards] psychiatric rehabilitation principles.

(2) Engaging an individual in PRS.

(3) Assessing individual strengths, interests and preferences for [rehabilitation service] PRS with an individual.

(4) Developing strategies to assist an individual in identifying, achieving and maintaining valued roles.

(5) Developing [rehabilitation plans] an IRP with an individual.

(6) Helping an individual increase awareness of community resources and identify preferred options for the rehabilitation process.

(7) Educating an individual about mental illness, wellness and living in recovery.

(8) Providing direct or indirect skills development.

(9) Assisting an individual in identifying, developing and utilizing natural supports.

(10) Reaching out and re-engaging an individual who discontinues service participation.

(d) [A facility may provide PRS concurrently with clinical treatment.] PRS shall be provided to an individual regardless of involvement in other mental health services.

(1) [A] PRS shall begin as soon as [clinically] possible following diagnosis.

(2) A PRS [facility] agency shall collaborate and coordinate with other [services] service agencies with the consent of the individual.

(e) A PRS [facility] agency shall follow EBP or best practices of the specific PRS approach identified in the agency service description.

(f) [A PRS facility shall demonstrate fidelity to the specific PRS approach identified in the service description.

(g) A PRS [facility] agency may offer PRS in [premises or] a PRS facility, in the community, or [in a combination of the two] both, as is consistent with an approved agency service description.

§ 5230.5. Access to facility and records.

(a) A PRS [facility] agency shall provide access to the [premises] PRS facility and records during inspection and, upon request, by the Department.

(b) A PRS [facility] agency shall grant access to private interviews with individuals upon request by the Department and with individual consent.

GENERAL REQUIREMENTS

§ 5230.11. Organizational structure.

A PRS [facility] agency shall:

(1) [Develop a PRS advisory board that includes participation by individuals and families who utilize mental health services.] Establish guidance from an advisory board that:

(i) Includes participation by individuals and families who utilize mental health services.

(ii) Is developed by the PRS agency or is the advisory board of the legal entity.

(2) Document that the members of the [PRS] advisory board have been provided with an overview of PRS processes and practices.

(3) Name a PRS director and [staff] psychiatric rehabilitation specialist.

§ 5230.12. Inspections and licenses.

(a) A PRS [facility] agency shall meet the requirements under Chapter 20 (relating to licensure or approval of facilities and agencies).

(b) A PRS [facility] agency may [appeal] file an appeal relating to licensure or approval [of PRS facilities] in accordance with 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure).

§ 5230.13. [Facility] Agency records.

A PRS [facility] agency shall maintain records that contain copies of the following:

(1) Inspection reports, certifications or licenses issued by state and local agencies.

(2) The PRS statement of rights under § 5230.41 (relating to PRS statement of rights).

(3) Documentation of civil rights compliance.

- (4) A detailed agency service description under § 5230.15 (relating to agency service description).
- (5) PRS [facility] agency policies and procedures that address the following:
- (i) The implementation of the PRS based upon the agency service description.
 - (ii) Nondiscrimination statement.
 - (iii) Compliance with other applicable State and Federal regulations, including the Americans with Disabilities Act of 1990 (ADA) (42 U.S.C.A. §§ 12101—12213) and the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the act of August 21, 1996 (Pub. L. No. 104-191, 110 Stat. 1936).
 - (iv) Engagement and outreach to an individual to maintain participation in the IRP.
 - (v) Complaint[, grievance and appeal notices] policies and procedures.
 - (vi) [Crisis response] Individual crisis management.
 - (vii) Disaster preparedness.
- (6) Human resources policies and procedures that address the following:
- (i) Job descriptions for staff positions.
 - (ii) Criminal history background check requirements and protocol.
 - (iii) [Policies regarding transportation] Transportation of individuals.
 - (iv) Evidence of staff credentials or qualifications.
 - (v) Records of orientation and training, including an annual training plan for staff.
 - (vi) Staff work schedules and time sheets.
- (7) PRS daily schedules.

(8) A copy of contracts or letters of agreement with external funding sources including [MCOs] BH-MCOs or [County MH/MR Administrators] county MH/ID administrators.

(9) Letters of agreement with mental health services and community agencies.

(10) Quality improvement documents, which include the following[.]:

(i) [Quality improvement] QI plan.

(ii) Data gathering tools.

(iii) [Evaluation] Annual review reports [and summaries].

§ 5230.14. Physical site requirements.

A PRS [facility] agency shall provide:

(1) A physical location within the PRS facility for record keeping and other administrative functions of the PRS regardless of where service is provided.

(2) [Space for the] PRS as a service that is distinct from other mental health services that may be offered [simultaneously.] by the legal entity:

(i) In terms of service content.

(ii) In terms of physical space utilized.

(3) A site that is accessible to [the service population] individuals.

(4) Space, equipment and supplies that are well-maintained and sufficient to deliver the services [as provided] listed in the agency service description.

(5) Private interview space.

(6) [Infection control procedures that document compliance with Occupational Safety and Health Administration.

(7)] Protocols that meet applicable Federal, State and local requirements for fire, safety and health, including protocols for the following:

- (i) Sanitation.
- (ii) Fire drills.
- (iii) Infection control.

§ 5230.15. Agency [Service] service description.

(a) Prior to the initial licensing visit, and when changes occur to the agency service description, a PRS [facility] agency shall submit to the Department for prior approval [a] an agency service description that includes the following:

(1) The governing body, advisory [structure] board and an agency table of organization.

(2) The philosophy of the PRS [facility] agency, incorporating psychiatric rehabilitation principles [and community support program principles].

(3) The population to be served, including the following:

- (i) Anticipated daily attendance.
- (ii) Age range.
- (iii) Diagnostic groups.
- (iv) Plans to identify and accommodate special populations.
- (v) Plans to identify and accommodate culturally diverse populations.

(4) The approach of PRS offered including EBPs and best practices utilized.

[(i)](5) A PRS facility identified as a clubhouse must be accredited by the [International Center for Clubhouse Development (ICCD)] ICCD within 3 years of licensing.

[(ii)](ii) A PRS facility shall demonstrate fidelity to the specific approach identified in the service description.

[(5)](6) The location of service, whether in a PRS facility or in the community, or a combination of both.

[(6)](7) Expected service outcomes for individuals.

[(7)](8) Staffing, including the following[.]:

(i) Staffing patterns.

(ii) Staff to individual ratios.

(iii) Staff qualifications.

(iv) Staff supervision plans.

(v) Staff training protocols.

[(8)](9) Service delivery patterns, including frequency, [intensity and] duration [of service] and method (group or individual) of service delivery.

[(9)](10) The days and hours of PRS operation.

[(10)](11) The geographic limits of PRS operation.

[(11)](12) A description of [The] the physical site, including copies of applicable licenses and certificates.

[(12)](13) A process for development of an IRP with an individual.

[(13)](14) [A referral process] Admission and discharge policies and procedures.

[(14)](15) The methods by which PRS staff and an individual will collaborate to identify and use the individual's preferred community resources [and establish linkages].

[(15)](16) A process for developing and implementing a QI plan.

[(16)](17) A procedure for filing and resolving complaints [and grievances].

(b) The Department [reserves the right to] may deny agency service descriptions and approaches that do not meet EBP or best practices standards.

§ 5230.16. Coordination of care.

(a) A PRS [facility] agency shall have written agreements to coordinate care with other service providers, including the following:

- (1) Psychiatric inpatient facilities.
- (2) Partial hospitalization programs.
- (3) Psychiatric outpatient clinics.
- (4) Crisis intervention programs.
- (5) Case management programs.

(b) A PRS agency may have written agreements to coordinate care with other service providers as needed, including the following:

- [(6)](1) Housing and residential programs.
- [(7)](2) Drug and alcohol programs.
- [(8)](3) Vocational, educational and social programs.

§ 5320.17. Confidentiality.

A PRS [facility] agency shall protect information about an individual in compliance with the Mental Health Procedures Act (50 P.S. §§ 7101—7503), §§ 5100.31—5100.39 (relating to confidentiality of mental health records), the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the act of August 21, 1996 (Pub. L. No. 104-191, 110 Stat. 1936)[,] and [the drug and

alcohol confidentiality regulations in] 4 Pa. Code § 255.5 (relating to projects and coordinating bodies: disclosure of client-oriented information).

INDIVIDUAL RECORD

§ 5230.21. Content of individual record.

A PRS [facility] agency shall develop and maintain a [unique] record for an individual served containing the following:

- (1) Information that identifies the individual.
- (2) Eligibility for PRS, including diagnosis.
- (3) Referral source, reason for referral[,] and recommendation by [a physician or licensed practitioner of the healing arts] an LPHA.
- (4) A signed set of documents providing the following:
 - (i) [Consent] Individual consent to receive services.
 - (ii) [Set of individual consents] Individual consent to release information to other providers.
 - (iii) [Statement] Verification that the individual has received and had an opportunity to discuss the oral and written versions of the PRS statement of rights under § 5230.41 (relating to PRS statement of rights).
 - [(iv) Statement that the individual has received verbal and written notification of freedom of choice of providers.]
- (5) An assessment and updates.
- (6) The IRP.
- (7) Staff documentation of IRP outcomes.
- (8) Staff documentation of coordination with other services and supports.

(9) Discharge summary.

§ 5230.22. [Record] Documentation standards and record security, retention and disposal.

A PRS [facility] agency shall ensure that an individual record meets the following standards:

- (1) The record must be legible throughout.
- (2) The record must identify the individual on each page.
- (3) Entries shall be signed and dated by the responsible [licensed provider] staff.
- (4) The record must indicate progress at each day of service, changes in service and response to services.
- (5) [Alterations] Updates of the record shall be signed and dated.
- (6) The record is kept in a permanent, secure [and protected] location.
- (7) The record shall be maintained for a minimum of 4 years.
- (8) Records shall be [destroyed] disposed of in a manner that protects confidentiality.

§ 5230.23. Access to individual record.

An individual may review, provide written comments and sign daily entries in the individual record.

ADMISSION, CONTINUED STAY AND DISCHARGE REQUIREMENTS

§ 5230.31. Admission requirements.

- (a) General rule. To be eligible for PRS, an individual shall meet the following:

(1) Have a written recommendation for PRS by [a physician or licensed practitioner of the healing arts] an LPHA acting within the scope of professional practice.

(2) Have the presence or history of a serious mental illness, based upon medical records, which includes one of the following diagnoses by [a psychiatrist] an LPHA:

- (i) Schizophrenia.
- (ii) Major mood disorder.
- (iii) Psychotic disorder (not otherwise specified).
- (iv) Schizoaffective disorder.
- (v) Borderline personality disorder.

(3) As a result of the mental illness, have a moderate to severe functional impairment that interferes with or limits performance in at least one of the following domains:

- (i) Living.
- (ii) Learning.
- (iii) Working.
- (iv) Socializing.

(4) Choose to [participate in the PRS program] receive PRS.

(b) Assessment. A PRS [facility] agency shall identify and document the functional impairment of the individual in an assessment as required under § 5230.61(b)(1) (relating to assessment).

(c) Exception. Individuals who do not meet the serious mental illness diagnosis requirement under subsection (a) may receive services when the following conditions are met:

(1) The written recommendation by the LPHA includes a diagnosis of mental illness that is listed on Axis I in the DSM-III-R or ICD-9 or subsequent revisions.

(2) The written recommendation by the LPHA includes a description of the functional impairment resulting from the mental illness, as required under subsection (a)(3).

§ 5230.32. Continued stay [requirement] requirements.

(a) A PRS agency shall determine an individual's eligibility for continued stay during an IRP update required under § 5230.62(c) (relating to individual rehabilitation plan).

(b) [A PRS facility shall determine eligibility] An individual's eligibility for continued stay [by an assessment that indicates] shall be determined by documentation of the following:

(1) An individual chooses [additional] continued participation in the PRS.

(2) A continued need for service based upon one or both of the following:

(i) As a result of a mental illness, there is a functional impairment or skill deficit that is addressed in the IRP.

(ii) The withdrawal of service could result in loss of rehabilitation gain or goal attained by an individual.

§ 5230.33. Discharge requirements.

When a PRS [facility] agency documents one of the following criteria, discharge may occur. An individual:

- (1) Has achieved [a rehabilitation goal] goals and sustained progress as designated in the IRP.
- (2) Has gained maximum rehabilitative benefit.
- (3) Will not lose rehabilitation gain or an attained goal as a result of withdrawal of service.
- (4) Has voluntarily terminated.

RIGHTS

§ 5230.41. PRS statement of rights.

- (a) An individual has the right to be treated with dignity and respect and to be free from physical and mental harm.
- (b) An individual has the right to receive PRS in a culturally respectful and nondiscriminatory environment.
- (c) An individual has the right to receive PRS in the least restrictive setting that fosters recovery and promotes growth.
- (d) An individual has the right to access competent, timely and quality service to assist with fulfillment of a [personal] goal.
- (e) An individual has the right to express a goal which is individualized and reflects informed choice concerning selection, direction or termination of service and service plan.

(f) An individual has the right to choose a service based on individual need, choice and acceptance and not dependent on compliance or participation with another treatment or rehabilitation service.

(g) An individual has the right to keep and use personal possessions in a manner that is reasonable to the service and location. Any necessary limitations shall be clearly communicated and defined, universally applied, and documented.

(h) An individual has the right to offer an opinion and belief[, to express a complaint related to service and to the IRP and to have the complaint heard in a fair manner].

(i) An individual has the right to [appeal an individual service decision] file a complaint related to PRS and to have the complaint addressed.

(j) An individual has the right to have the assistance of a personally chosen representative or advocate in expressing a complaint [or grievance].

(k) An individual has the right to be able to contribute to, have access to, and control release of the individual record.

(l) An individual has the right to have information and records concerning service treated in a confidential manner, as required under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the act of August 21, 1996 (Pub. L. No. 104-191, 110 Stat. 1936).

(m) A PRS [facility] agency shall:

(1) Assure compliance with the PRS statement of rights.

(2) Develop and implement a written procedure for assuring compliance with the PRS statement of rights.

- (3) Post the PRS statement of rights within the PRS facility.
- (4) Notify an individual verbally and in writing and include a signed acknowledgement of rights in the individual record.
- (5) [Make service decisions] Develop the IRP in compliance with individual rights.

§ 5230.42. Nondiscrimination.

A PRS [facility] agency may not discriminate against an individual or staff on the basis of age, race, sex, religion, ethnic origin, economic status, sexual orientation or gender identity or expression, or disability.

§ 5230.43. [Complaint, grievance and appeal procedures] Complaints.

(a) The PRS [facility] agency shall have written policies and procedures for filing and [requesting, responding,] and resolving complaints [and grievances].

(b) A PRS [facility] agency shall give verbal and written notice to an individual upon admission to the service, explaining complaint[, grievance and appeal] policies and procedures.

(c) A PRS [facility] agency shall offer assistance to an individual as needed to file a complaint[, grievance or appeal].

STAFFING

§ 5230.51. Staff qualifications.

- (a) A PRS director shall have one of the following:
 - (1) A bachelor's degree and CPRP certification.

(2) A bachelor's degree and at least 3 years work experience in mental health direct service, 2 years of which must be work experience in PRS. CPRP certification must be attained within 2 years of hire as a PRS director.

(3) An associate of arts degree and CPRP certification if employed as the PRS director of a licensed PRS facility for at least 6 months immediately prior to the date of final publication of the regulation.

(b) A psychiatric rehabilitation specialist shall have one of the following:

(1) A bachelor's degree and 2 years work experience in mental health direct service, 1 year of which must be work experience in PRS. CPRP certification must be attained within 2 years from the date of hire as a psychiatric rehabilitation specialist.

(2) CPRP certification.

(c) A psychiatric rehabilitation worker shall have one of the following:

(1) A bachelor's degree.

(2) An associate's degree and 1 year work experience in mental health direct service.

(3) A CPS certificate and 1 additional year paid or volunteer work experience in mental health direct service.

(4) A high school diploma or GED and 2 years work experience in human services which must include 1 year of mental health direct service.

(d) A psychiatric rehabilitation assistant shall have a high school diploma or GED and 6 months experience in human services.

§ 5230.52. General staffing [patterns] requirements.

(a) A PRS [facility] agency shall staff the service according to the following:

(1) The location of services is consistent with the agency service description.

(2) The service may range from individual service to group service.

(3) The service and the choice of service locations must be determined by the IRP of the individual.

(b) A PRS [facility] agency shall employ a PRS director and a psychiatric rehabilitation specialist [for the PRS].

(c) When a service is delivered in a PRS facility, a PRS facility shall have an overall complement of one [FTE] staff for every ten individuals, a (1:10) ratio, based upon average daily attendance].

(d) When a service is delivered, a PRS [facility] agency shall schedule a psychiatric rehabilitation specialist or psychiatric rehabilitation worker to be present.

(e) A PRS [facility] agency shall develop a schedule that includes a plan to maintain staffing requirements during:

(1) Staff absence.

(2) Deployment of staff for [community service] PRS delivered in the community.

(f) A PRS [facility] agency shall document staffing by maintaining work schedules, time records and [daily] utilization data.

(g) When a PRS agency operates [at] more than one PRS facility [address], the PRS director shall be present at each licensed PRS facility [address] an average of 7.5 hours per week in a calendar month.

(h) A minimum of 25% of the FTE staff complement shall meet [specialist criteria] the qualifications of a psychiatric rehabilitation specialist provided under § 5230.51(b) (relating to staff qualifications) within 1 year of initial licensing.

(i) A minimum of 25% of the FTE staff complement shall have CPRP [credential] certification within 2 years of initial licensing.

(j) Trained staff shall be available, or other accommodations made, to address the language needs of an individual, including American Sign Language and Braille.

§ 5230.53. Individual services.

A PRS [facility] agency shall provide individual [PRS] services in a PRS facility or in the community on a one staff to one individual (1:1) ratio.

§ 5230.54. Group services.

(a) A PRS [facility] agency shall provide group [PRS] services in a PRS facility or in the community.

(1) When a group service is provided in a PRS facility, group size may vary as long as [the one staff to ten individuals (1:10) ratio for the overall service is met] the requirement under § 5230.52(c) (relating to general staffing requirements) is met.

(2) When a group service is delivered in the community, one staff [may] shall serve a group of [two to five (2:5) ratio individuals] no more than five individuals. Group size in the community may not exceed five individuals.

(b) [Individuals participating in a group service shall be working on similar goals, as identified in the individual's IRP.] Group services delivered in the community shall be limited to individuals who have IRP goals that specify the need for services in the community.

(c) A PRS [facility] agency shall consider personal preferences of an individual and shall inform an individual of the following:

(1) The location where the group is to meet.

(2) [Purpose] The purpose of providing service in a community setting.

(3) The roles of individuals and PRS staff.

(d) A PRS [facility] agency shall obtain individual consent to participate in [the] group [activity] services in [a] the community [location].

(e) A PRS [facility] agency may not require an individual to participate in [community group participation] group services in the community. [and individual] Individual preference for one to one (1:1) ratio service in the community shall be honored. [, per freedom of choice requirements.]

(f) A PRS [facility] agency shall design group [community service as experiential rather than verbal,] services delivered in the community to protect confidentiality in a public location.

(g) A PRS [facility] agency shall arrange for group discussion of the experience[,] before and after [the] service is conducted in [a] the community

[setting,]. The group discussion [to] shall occur in [the privacy of the facility] a setting which assures confidentiality.

§ 5230.55. Supervision.

(a) A PRS director shall supervise staff.

(b) A [PRS] psychiatric rehabilitation specialist may perform supervisory functions as delegated by the PRS director, consistent with approved job descriptions for the two positions.

(c) A PRS director or [PRS] psychiatric rehabilitation specialist designated as a supervisor shall meet with staff individually, face-to-face, no less than two times per calendar month.

(d) A PRS director or psychiatric rehabilitation specialist designated as a supervisor shall provide [additional] group supervision utilizing the following methods:

(1) Monitoring active PRS delivery.

(2) [Individual case discussions] Discussing approaches to assist individuals in goal attainment.

(3) [Staff] Conducting staff meetings.

(e) A PRS director or psychiatric rehabilitation specialist designated as a supervisor shall annually evaluate staff and the PRS director shall review and approve annual staff evaluations.

§ 5230.56. Staff training requirements.

A PRS [facility] agency shall implement a staff training plan that ensures initial and ongoing training in PRS practices as specified under § 5230.4 (relating to psychiatric rehabilitation processes and practices).

(1) Staff [that provides] providing services in a PRS agency shall complete a Department-approved 12-hour psychiatric rehabilitation orientation course [approved by the Department] no later than 1 year after hire. This course shall be credited to the annual training requirement listed under paragraph (2) for the calendar year in which it is completed.

(2) Staff providing services in a PRS agency shall complete 18 hours of training per calendar year with 12 hours specifically focused on psychiatric rehabilitation or recovery practices, or both.

(3) A PRS [facility] agency shall assure competency of new staff by providing an additional PRS [service specific] service-specific orientation that includes the following:

(i) [~~Eight~~] Six hours of training in the specific PRS model or approach outlined in the agency service description prior to new staff working independently. This training is required within the first year of employment.

(ii) Six hours of face-to-face mentoring [of service delivery] for new staff prior to new staff delivering services independently. Mentoring shall be provided by a [supervisor] PRS director or psychiatric rehabilitation specialist designated as a supervisor [for new staff before services are delivered independently] and is required within the first year of employment.

- (4) A PRS [facility] agency shall assure that training has learning objectives.
- (5) A PRS [facility] agency shall maintain documentation of training hours in the PRS [facility] agency records under [§ 5230.13(5)(v)] § 5230.13(6)(v) (relating to [facility] agency records).

§ 5230.57. Criminal history background check.

- (a) A PRS [facility] agency shall complete a criminal history background check for staff that will have direct contact with an individual.
- (b) A PRS [facility] agency shall develop and consistently implement written policies and procedures regarding personnel decisions based on [the outcome of] the criminal history background check.

SERVICE PLANNING AND DELIVERY

§ 5230.61. Assessment.

- (a) A PRS [facility] agency shall complete an assessment of an individual prior to developing the IRP.
- (b) The assessment shall be completed in collaboration with the individual and must:
- (1) [Include] Identify the functioning of the individual in the living, learning, working and socializing domains.
 - (2) [Include] Identify the strengths and needs of the individual.
 - (3) Identify existing and needed natural and formal supports, including other health care facilities and social service agencies.
 - (4) Identify the specific skills, supports and resources the individual needs and prefers to accomplish stated goals.

- (5) Identify cultural needs and preferences of the individual.
- (6) Be signed by the individual and staff.
- (7) Be updated annually and when one of the following occurs:
 - (i) The individual requests an update.
 - (ii) The individual completes a goal [or objective].
 - (iii) The individual is not progressing on stated goals.

§ 5230.62. Individual rehabilitation plan.

(a) A PRS staff and an individual shall jointly develop an IRP that is consistent with the assessment and includes the following:

- (1) A [rehabilitation] goal [and objective] designed to achieve [a measurable] an outcome.
- (2) The method of service provision, including skill development and resource acquisition.
- (3) The responsibilities of the individual and the staff.
- (4) Action steps and time frame.
- (5) The expected frequency and duration of participation in the PRS.
- (6) The intended service location.
- (7) Dated signatures of the individual, the staff working with the individual and the PRS director.

(b) A PRS [facility] agency shall complete an IRP by day 20 of attendance, but no more than 60 calendar days after initial contact.

(c) A PRS [facility] agency and an individual shall [review and revise] update the IRP at least every 90 calendar days, and when:

- (1) [The overall rehabilitation] A goal is completed.
- (2) [An objective is completed.
- (3)] No significant progress is made.
- [(4)](3) An individual requests a change.
- (d) [The] An IRP [review] update must include a comprehensive summary of the individual's progress that includes the following:
 - (1) A description of the service in the context of the goal identified in the IRP.
 - (2) Documentation of individual participation and response to service.
 - (3) A summary of progress or lack of progress toward the goal in the IRP.
 - (4) A summary of changes made to the IRP.
 - (5) The dated signature of the individual.
 - (6) Documentation of the reason if the individual does not sign.
 - (7) The dated signature of [PRS staff] the PRS staff working with the individual and the dated signature of the PRS director.

§ 5230.63. Daily entry.

A PRS [facility] agency shall include an entry for the day service was provided in the record of an individual as follows:

- (1) Indicates the date, time, duration, location[,] and type of interaction.
- (2) Documents service provided in the context of the goal.
- (3) Documents the individual response to service.
- (4) Includes the signature of the individual, or if the individual does not sign, [document] documents the reason.
- (5) Is signed and dated by staff providing the service.

DISCHARGE

§ 5230.71. Discharge.

- (a) A PRS [facility] agency shall discuss discharge with an individual.
- (b) A decision to discharge should be a joint decision between the individual and the PRS agency.
- (c) When a decision to discharge is not a joint decision, the PRS [facility] agency shall document the reason for discharge.
- (d) When a decision to discharge is reached, a PRS [facility] agency shall offer the individual the opportunity to participate in future service.
- (e) When an individual voluntarily terminates from the PRS, a PRS [facility] agency shall plan and document next steps with the individual, including recommended service and referral.
- (f) When it is necessary to discharge an individual from PRS due to the individual's disengagement, prior to discharge the PRS [facility] agency shall document:
 - (1) Attempts to reengage the individual.
 - (2) The circumstances and rationale for discharge.
- (g) When an individual has a recurring or new need for PRS and meets admission criteria, the PRS [facility] agency shall [reconsider] consider the individual for readmission without regard to previous participation.

§ 5230.72. Discharge summary.

- (a) Upon discharge, a PRS [facility] agency shall complete a dated and signed discharge summary that must include a description of the following:

- (1) Service provided.
 - (2) [Progress] Outcomes and progress on goals.
 - (3) Reason for discharge.
 - (4) Referral or recommendation for future service.
- (b) A PRS [facility] agency shall assure that the discharge summary is:
- (1) Completed no more than 30 days after the date of discharge.
 - (2) Reviewed and signed by the PRS director.
 - (3) Offered to the individual for review, signature and the opportunity to comment.

QUALITY IMPROVEMENT

§ 5230.81. Quality improvement requirements.

(a) A PRS [facility] agency shall establish and implement a written [quality improvement] QI plan that meets the following requirements:

- (1) Provides for an annual review of the quality, timeliness and appropriateness of services, including the following:
 - (i) Outcomes for PRS.
 - (ii) Individual record [audits] reviews.
 - (iii) Individual satisfaction.
 - (iv) Use of exceptions to admission and continued stay requirements.
 - (v) Evaluation of [fidelity to] compliance with the agency service description.
- (2) Identifies reviewers, frequency and types of [audits] reviews and methodology for establishing sample size.

[(3)] (b) [Documents] A PRS agency shall document that individuals served participate in QI plan development and follow up.

[(4)] (c) [Results in an annual comprehensive summary] A PRS agency shall prepare a report that:

(i) [Reports on actions to address QI findings.] Documents analysis of the findings of the annual review required under subsection (a).

(ii) [Is available to the public.] Identifies actions to address annual review findings.

(d) A PRS agency shall make the report available to the public.

WAIVER OF STANDARDS

§ 5230.91. Request for waiver.

(a) A PRS [facility] agency may submit a written request to the Department for a waiver of a specific requirement contained in this chapter.

(b) The Department reserves the right to grant or deny waiver of a specific requirement contained in this chapter.

(c) A waiver request will be considered only in exceptional circumstances.

(d) A waiver will be granted only when the health and safety of an individual and the quality of service are not adversely affected.

(e) The Department reserves the right to revoke a waiver if the conditions required by the waiver are not met.

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TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE REGULATORY REVIEW ACT

I.D. NUMBER: 14-521
SUBJECT: PSYCHIATRIC REHABILITATION SERVICES
AGENCY: DEPARTMENT OF PUBLIC WELFARE

TYPE OF REGULATION

- Proposed Regulation
X Final Regulation
Final Regulation with Notice of Proposed Rulemaking Omitted
120-day Emergency Certification of the Attorney General
120-day Emergency Certification of the Governor
Delivery of Tolled Regulation
a. With Revisions b. Without Revisions

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RECEIVED IRRC

FILING OF REGULATION

Table with columns: DATE, SIGNATURE, DESIGNATION. Includes entries for HOUSE COMMITTEE ON HEALTH & HUMAN SERVICES, SENATE COMMITTEE ON PUBLIC HEALTH & WELFARE, and INDEPENDENT REGULATORY REVIEW COMMISSION.