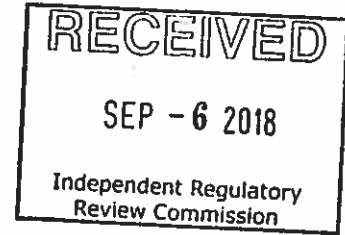


14-546-84 3209

**Champa, Heidi**

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**From:** Pam Johns <PamJohns@barberinstitute.org>  
**Sent:** Tuesday, September 04, 2018 3:24 PM  
**To:** PW, IBHS  
**Cc:** Jennifer Kennedy  
**Subject:** Comments on Proposed Chapter 5240 Regulations  
**Attachments:** IBHS Comments.docx



Good Afternoon,

Thank you for giving providers the opportunity to comment on these proposed new regulations. With the intense changes that these proposed regulations suggest to a program that has for so many years operated with minimal requirements, the drastic imposition of these as they are currently proposed could potentially force many providers to close their programs. This would be a great loss of much needed supports to children, youth and young adults in Pennsylvania. Allowing providers to comment and have input before enforcing them is much appreciated.

Please find my comments to the 5240s as proposed.

Again, thank you for this opportunity to comment.

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3209



**Comments on the Proposed 5240 Regulations  
Intensive Behavioral Health Services**

General comment: As written these regulations seem contain extreme changes from the framework under which these services are presently being provided. As such it would seem that current providers will not be able to continue to provide services at the reimbursement rates for the much needed services to the children, youth and young adults of Pennsylvania. As written the state is creating new staff positions/titles and the qualifications for many of these positions, whose identified responsibilities seem duplicative and out of alignment with each other. We would ask that the state reconsider the structure of the staffing identified.

*§5240.6 (b) "A manual restraint is the only restrictive procedure that may be used and may not..."*

As written it appears that the state is saying that there are no other restrictive procedures other than manual restraint? As worded in this section it seems as though the state is defining a restrictive procedure as a manual restraint. Is this truly the intent?

If so this is a drastic change in terminology and is not clearly identified as such in the definitions of these terms.

*§5240.13 (a) (1) and (1)(i): The identification of "...individual training plan..." and "...for each staff person..."*

For a provider to develop individualized training plans for each staff person seems unreasonable as a mandate.

A training plan is typically identified for all staff, and additional trainings are provided to staff as needed when a staff person requires specific training. To mandate individualized training plans, revised on an annual basis for each staff is an unreasonable expectation for providers.

We would ask that the individualization of training plans be removed from the regulations and providers be allowed to continue to establish an agency wide training plan and provision of trainings as needed to individual staff.

*§5240.13 e (7): "Department approval of the training" and §5240.73 Staff Training requirements "...Department-approved training..."*

From the wording in the regulations, may we gather that the Department is creating trainings that are to be utilized?

If not, there is no reference or guidance as to how a provider is to receive approval from the department for trainings.

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For providers to receive department approval for each training session they want to offer/provide staff is going to be time consuming and difficult for the provider.

We would ask that the wording be revised in relation to "department approval" of trainings.

*§5240.22 (d) "The ITP must include the recommendations from the licensed professional who completed the written order for the IBHS in accordance with §1155.32(1)".*

Orders that are currently received for BHRS services recommend BHRS service as a treatment modality and identify a number of hours per week or month. There are not specifics as to a particular service or treatment recommendations.

In proposed §1155.32(1), the orders are now being required to include much more than they currently include.

To require a provider of service to tell a licensed professional what they need to include in their order seems unreasonable and difficult, as the family receives the order and then selects their service provider.

We would ask that the state reconsider the changes proposed for all the information in the order OR develop a means of informing/training all potential licensed professionals who may write these orders in what needs to be included.

Requiring a provider of IBHS to ensure all the new information in the licensed professionals order for the service is in the order seems inappropriate.

*§5240.42 (a)(3) "A written emergency plan that includes, at a minimum, a plan for natural disasters, inclement weather and medical emergencies."*

As these services are provided in the community/individual's homes/schools, etc. the requirement for the provider to have an emergency plan is unreasonable.

We would ask that this requirement be deleted.

*§5240.61 Quality improvement requirements*

*In (a)(2)(iii) "Staff's qualifications to perform the review."*

As there are no set requirements identified in the regulations as to who is to conduct this review, it is unclear as to what "qualifications" are required or who should conduct these reviews.

*§5240.71(b) "Behavior specialists who provide individual services to children (what about to youth or young adults?) diagnosed with ASD for the treatment of ASD shall meet the qualifications for a behavior specialist analyst in §5240.81(c) "*

*§5240.81(c) says "A behavior specialist analyst who provides ABA services shall...."*

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Is §5240.71(b) thus mandating that all services to children diagnosed with ASD be ABA? This seems unclear as written. We would request clarification.

§5240.71 (d) identifying the qualifications for a BHT (Behavioral Health Technician): In review of these regulations it appears that the BHT is taking the role of current TSS. If this is the case, the qualification requirements for the BHT will make the hire and continued employment of them by a provider extremely difficult. Individuals with the qualifications that are identified for the BHT will expect salaries higher than what a provider is able to pay based on reimbursement levels.

We would ask that the state reconsider the qualification requirements for this position.

§5240.72 (c): *"An IBHS supervisor....."*

Within these regulations there are administrative directors; clinical directors, and supervisors, all of whom are identified as needing to hold a graduate degree or licensure.

This seems top heavy and financially difficult for a provider to sustain salaries for this many high level professional staff. We would ask that the state reconsider the necessity of all these positions and or their qualifications.

§5240.72 *Supervision*: Within this section, the term "supervision" is used repeatedly without a clear identification of what it means. Is "supervision" the presence of the supervisor on site wherever the service is being provided? Or is it the availability of the supervisor to be reached if needed? Again, as most these services are provided in the community or in the child's/youth's/ young adult's home or school some of the supervision requirements such as §5240.71(e) disruptive to the service and others in that location.

We would ask for clarification and reconsideration of all the supervision requirements currently included in these regulations.

We would ask for clarification for the following:

§5240.72(b) Are the identified times of supervision to occur for each child/youth/young adult on a BHT's caseload?

§5240.72(b) (1): Is this only to occur upon hire of a new BHT or every time a BHT has a child/youth/young adult added to their caseload?

§5240.72(d): *"An IBHS supervisor may supervise a maximum of nine full-time equivalent BHT staff."*

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Many of our TSS's are part-time employees. If this would continue to be the case under these regulations, how many part-time staff may a supervisor supervise?  
We would ask for clarification.

*§5240.73(d): Regarding the requirements of the number of hours of training by a BHT.*  
How do these apply to a BHT who worked previously for another provider and is now working for a new provider?  
We would ask for clarification of this.

*§5240.75 Individual services provision*  
The state's attempt to identify what specific service each position may provide leaves some gaps and much needed clarification.

*§5240.75(b)(4) "ITP development"*  
It seems by this that the Mobile Therapist writes the ITP.  
Please clarify if this is correct.  
If this is correct, it is the behavior specialist *§5240.75(a)(4) "Review, analysis and interpretation of data to determine any changes to goals and objectives included in the ITP."*  
Why is it not behavior specialist who writes/develops the ITP?

It seems that both the behavior specialist and the mobile therapist conduct assessments. Although there is specification of what the assessments are to address there seems to be overlap.  
We would ask for clarification.

*§5240.73(c)(9) "Referrals to other necessary services and supports."* under the services provided by BHT's  
Is the state really meaning to say that a BHT makes referrals on their own? There is no reference here to consultation with anyone else on the team, or their supervisor. We would ask that this be reconsidered and clarified or removed.

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