

KATHY L. RAPP, MEMBER
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House of Representatives
Commonwealth of Pennsylvania
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August 5, 2022

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Pennsylvania Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

Via Electronic Mail to irrc@irrc.state.pa.us

Via Electronic Mail to RA-PWDHS-OGC-Mail@pa.gov

Dear Members of the Independent Regulatory Review Commission:

**Re: Rulemaking #14-548: Psychiatric Rehabilitation Services
IRRC #3347**

In my capacity as a member of the House of Representatives, I have reviewed the above proposed regulation as submitted by the Department of Human Services (Department) concerning psychiatric rehabilitation services (PRS). I offer the following questions for response by the Department to clarify certain concerns that I have.

Under the current regulations, PRS is only available for individuals 18 years of age or older (see, for example, the definition of “individual” under 55 Pa. Code § 5230.3 (relating to definitions)). As such, parental consent is not required currently due to the age of the individual that may receive PRS. Under the proposed regulation, the Department is proposing to lower the age at which an individual may receive PRS from 18 to 14.

While I support the initiative to provide more services to individuals with serious mental illness or serious emotional disturbance so that they may develop the skills needed to live, learn, socialize, and work in the community and improve or maintain their physical or mental health, I do have concerns about how this change will affect parental rights to determine what is in the best interest of a parent’s or guardian’s child. Given that concern, I offer the following questions to the Department to clarify the proposed regulation.

1. The Department cites sections 911 and 1021 and Articles IX and X of the Human Services Code (62 P.S. § 911, 1021, 901—922 and 1001—1088) for its authority to promulgate this regulatory package. Those sections provide authority for the Department to make and enforce rules and regulations for a visitation, examination and inspection of all supervised institutions (§ 911(a)(1)) and generally for the promulgation of regulations for licensing provisions (§ 1021). I request the Department to clarify whether there are specific statutory provisions, whether state or federal, that provides the Department with authority to promulgate regulations regarding minors receiving PRS without needing parental consent.
2. *Proposed regulation § 5230.21.* Under this proposed regulation, the Department provides for parental or caregiver consent for an individual to receive PRS if the individual is under 18 years of age and allows for the release of records with the individual's consent or parent's or caregiver's consent if the individual is under 18 years of age to family members and other supports, as appropriate, because their input is important when individuals under 18 years of age receive PRS (See, preamble, pg. 4). The proposed regulation provides that an individual at least 14 years of age but under 18 years of age may receive PRS if the individual consents or if a parent/legal guardian provides consent (see proposed regulation §§ 5230.21(4)(i) and (ii)). As the Department uses the conjunctive "or," does the Department mean to authorize PRS to individuals at least 14 years of age without requiring parental consent?
3. If the answer to the second question is yes, I have concerns about the scenario that may develop when a minor and a parent disagree as to the proposed route of treatment. If the minor consents to treatment, but the parent does not, or the minor does not want PRS, but the parent provides consent to having his or her child receive PRS, how will that disagreement be resolved? How does a provider handle this disagreement when determining whether to provide PRS to the minor?
4. Similar to the third question, how will admission requirements be handled (see proposed regulation § 5230.31 (relating to admission requirements)) if a parent disagrees with having their minor child admitted when the proposed regulation allows for admission with a written recommendation from a licensed practitioner of the healing arts?
5. Concern regarding access to a minor's medical record by a parent has increased. Under proposed regulation § 5230.21(4)(ii), a minor must consent to the release of information to family members unless the parent has given the initial consent for the minor to receive PRS. In situations where the minor child has consented to receive PRS, are there provisions or situations in which a parent may access their minor child's records without the minor child's consent, or may the parent only receive this access if the parent provided the initial consent for the minor child to receive PRS?

Members of the Independent Regulatory Review Commission

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As stated, I support providing minors with increased assistance for serious mental illness or serious emotional disturbance. However, I have concerns with how the Department's proposed regulations will interfere with a parent's right to determine the best course of action for his or her minor child.

Thank you for taking the time to address my concerns. Please do not hesitate to reach out to me if you have any questions.

Respectfully,

A handwritten signature in cursive script that reads "Kathy L. Rapp".

Kathy L. Rapp
65th Legislative District

cc: The Honorable Frank A. Farry, Majority Chair, House Human Services Committee
The Honorable Angel Cruz, Minority Chair, House Human Services Committee
The Honorable Michele Brooks, Majority Chair, Senate Health & Human Services Committee
The Honorable Art Haywood, Minority Chair, Senate Health & Human Services Committee