

14-548-9
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Good afternoon,

After reviewing the Psychiatric Rehabilitation regulation I have found 2 concerns I wanted to send your way:

The first one is with 5230.13 (11). I feel like it would probably be best to state "Criminal history background checks and child abuse clearances certifications as required under..." because this section requires them to maintain records for child abuse certification but doesn't say they need to maintain the criminal history background check. 5230.57 outlines that providers have to do the background check but doesn't say it needs to be maintained in the file. Might as well include this here so it is stated. Probably would be a good idea to add a (12) to require providers who don't serve children to maintain the background checks also.

§ 5230.13. Agency records.

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

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(6) Human resources policies and procedures that **are consistent with the PRS agency's service description and** address the following:

(i) Job descriptions for staff positions.

(ii) Criminal history background **[check] checks and child abuse certification** requirements and protocol **in accordance with § 5230.57 (relating to criminal history checks and child abuse certification)**.

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(10) Quality improvement documents, including the following:

(i) QI plan.

(ii) Data gathering tools.

(iii) Annual review reports.

(11) Child abuse certifications as required under 23 Pa.C.S. §§ 6301—6388 (relating to Child Protective Services Law).

The second concern is with 5230.21(4)(ii). I don't feel like the language matches the requirements of Act 65 of 2020. I spoke with Kim Rog and she agrees, the language doesn't quite match the nuances of the Act 65 requirements in regards to consents to release information.

from DHS website (Act 65 of 2020):

- When a parent or legal guardian has consented to the mental health treatment of a minor, the parent or legal guardian can also consent to the release of the minor's :
 - Medical records to the minor's current mental health provider
 - Prior mental health records to the minor's current mental health treatment provider, if the information is deemed pertinent by the current mental health provider.
 - Mental health records to the primary care provider, if the current mental health treatment provider determines that the release will not be detrimental to the minor
- In all other situations, minors control the release of their mental health treatment records.

§ 5230.21. Content of individual record.(4)(ii)

(ii) [Individual] Documentation of an individual's consent to release information to other providers and natural supports, including family members, or, if the individual is 14 years of age or older but under 18 years of age, documentation of the individual's consent to release information to other providers and natural supports, including family members, or, if the parent or legal guardian has provided the consent to receive PRS, documentation of consent by the individual's parent or legal guardian to release information to other providers **and natural supports, including family members.**

The way this is written it sounds like the parent/guardian can consent to release information to natural supports and family members on behalf of the minor, which doesn't seem to conform to the Act requirements. Also, the third clause could be read independently of the second clause, meaning a parent/legal guardian of someone above 18 could provide consent based on a bad reading of this language.

To address these concerns, it could potentially be changed to something like this:

Documentation of an individual's consent to release information to other providers and natural supports, including family members. If the parent or legal guardian of an individual who is 14 years of age or older but under 18 years of age has provided the consent to receive PRS, documentation of the consent by the individual's parent or legal guardian to release information to other providers following the requirements of applicable State and Federal regulations.

Thanks,

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