

**INDEPENDENT REGULATORY REVIEW COMMISSION
PUBLIC MEETING MINUTES**

10:00 A.M.

Thursday, July 18, 2019
14th Floor Conference Room
333 Market Street

I. CALL OF THE MEETING

The July 18, 2019 public meeting of the Independent Regulatory Review Commission (Commission) was called to order by Chairman Bedwick at 10:02 a.m. in the 14th Floor Conference Room, 333 Market Street, Harrisburg, PA.

Commissioners Present: George D. Bedwick, Chairman
 John F. Mizner, Esq., Vice Chairman
 W. Russell Faber

Telephone: Murray Ufberg, Esq.
 Dennis A. Watson, Esq.

II. APPROVAL OF THE JUNE 20, 2019 PUBLIC MEETING MINUTES

Chairman Bedwick asked for a motion for approval of the June 20, 2019 public meeting minutes, as submitted. Vice Chairman Mizner made the motion and Commissioner Faber seconded, and the motion passed 5-0.

III. NEW BUSINESS

A. DEEMED APPROVED

1. No. 3172 Pennsylvania Gaming Control Board #125-205: Table Game Rules of Play

B. ACTION ITEMS

1. No. 3176 Department of Human Services #14-538: Outpatient Psychiatric Services and Psychiatric Outpatient Clinics

Corinne Brandt, Regulatory Analyst, explained that this final rulemaking updates two chapters in the Department of Human Services' (Department) regulations relating to outpatient psychiatric services and psychiatric outpatient clinics. She further explained it will incorporate changes in the benefit package resulting from the implementation of the Medicaid expansion under the federal Patient Protection and Affordable Care Act and codify the requirements for the delivery of Mobile Mental Health Treatment.

Scott Schalles, Regulatory Analyst, reported the Commission received comments from the Pennsylvania Psychological Association indicating the regulations have many positive features but "inhibit the movement toward integrated care." He also reported comments were received from Pennsylvania Association of County Administrators of Mental Health and Developmental Services in support of the final regulations. Mr. Schalles said both the House and Senate standing committees have deemed the regulation approved.

Valerie Vicari, Acting Deputy Secretary, Office of Mental Health and Substance Abuse Services, and Jamey Welty, Director, Office of Mental Health and Substance Abuse Services, Department, were present to answer any questions.

Ms. Vicari told the Commissioners, "Psychiatric outpatients clinics serve a key role in providing mental health treatments to individuals in their local communities in all regions of the Commonwealth and are an essential resource within the continuum of care for children, youth and adults needing mental health services." She explained that the Department convened a diverse stakeholder workgroup to review and provide input to the proposed rulemaking. Ms. Vicari outlined some of the key changes including psychiatric time requirements; staffing patterns; treatment plan timeframes; Mobile Mental Health Treatment; and licensed practitioners of the healing arts.

Chairman Bedwick offered some drafting suggestions. He pointed out that section 5200.31 (b) does not include the same proviso as other parts of the regulation dealing with an individual's refusal to sign a treatment plan. Chairman Bedwick then asked about the criteria included in the definition of "mental health worker." He said it includes having a bachelor's degree in a recognized clinical discipline and then the next provision addresses someone with a graduate degree in a clinical discipline which requires a certain number of hours in mental health or counseling. Chairman Bedwick wanted to know the difference between a "recognized clinical discipline" and "clinical discipline." Ms. Vicari explained the regulations have requirements for a mental health professional and for a mental health worker. She further explained with the mental health worker they can work towards their degree. Chairman Bedwick suggested there is a need to clarify the definition.

Chairman Bedwick then asked about section 5200.33 relating to discharge plans. He wanted to know about the provision requiring a psychiatric outpatient clinic to complete a discharge summary for each individual at least 45 days before discharge from services. Ms. Vicari explained that when they are looking at someone moving to a different level of care, they want to make sure that the coordination with communities is in place and they have everything together so that person can successfully transition.

Chairman Bedwick asked about section 5200.45 (g) which provides that a psychiatric outpatient clinic may operate at more than one site if the respective sites meet all physical facility standards and the sites operate as a portion of outpatient clinic. In that case, the Department shall issue a single certificate of compliance to the parent organization which will list all operational sites. He said the licensing portion of the regulation clearly says each site must have a separate license. Chairman Bedwick asked if you can do a single certificate for a whole series of sites. Ms. Vicari said the Department checks each individual site for licensing and being

listed on the one certificate is for ease of access and for everyone to know where that information is located.

Commissioner Faber asked if each site is licensed, is the certification automatic. Ms. Vicari said yes.

Diane Conway, Executive Director, MAX Association, testified in support of the final regulation but expressed concern with the current regulatory process in Pennsylvania. She told the Commissioners, "While this regulation update has taken an exceptional amount of time in the regulatory development, review and approval process, these proposed regulations are a significant improvement to the current outdated regulations." Concluding her testimony, Ms. Conway stated, "While MAX urges the Commission to approve this outpatient regulation, it more importantly urges the Commission to look at reforming the regulatory review process to eliminate the future possibilities that regulations hold providers back from employing best practices and being instrumental in the evolution of services."

Commissioner Watson advised that the length of time it takes any agency to prepare its regulations for final approval by the Commission is something the Commission pays close attention to. Chairman Bedwick pointed out that the Regulatory Review Act gives the Commission the ability, after a three-year period following the approval of a final regulation, to pass a motion to look at the regulation again.

Vice Chairman Mizner told Ms. Conway she plays a vital role in communicating with the Department regarding evolving best practices and encouraging them to move quickly in a timely manner. He said, "People like yourself play a very, very important role and I would encourage you that as you see things changing to the best of your ability to bring them to the Department and encourage them to get active in it right away."

Commissioner Watson made a motion for approval. Commissioner Faber seconded, and the motion passed 5-0.

IV. OTHER BUSINESS

Approval of Vouchers

Vice Chairman Mizner made motions to approve vouchers and expenses for the period May 17, 2019 through June 20, 2019. Commissioner Faber seconded, and the motions passed 5-0.

V. EXECUTIVE SESSION ANNOUNCEMENTS

Chairman Bedwick announced that there would be a break in the meeting for an executive session to discuss personnel matters. The meeting broke at 10:44 a.m. and resumed at 11:16 a.m.

VI. OTHER BUSINESS continued

Fiscal Year 2019-2020 Budget

Commissioner Faber made a motion to approve the budget for the 2019-2020 fiscal year. Vice Chairman Mizner seconded, and the motion passed 5-0, with Commissioner Ufberg voting by proxy.

VII. DATE AND PLACE OF SUBSEQUENT MEETING

Chairman Bedwick announced the next public meeting is scheduled for Thursday, August 15, 2019, at 10:00 a.m. in the 14th Floor Conference Room, 333 Market Street, Harrisburg.

VIII. ADJOURNMENT

Chairman Bedwick announced the meeting adjourned at 11:19 a.m.