



Re: Proposed Amendment of Chapter 5100 to align with Act 32 of 2022 and Health Insurance Portability and Accountability Act of 1996 (HIPAA) requirements.

January 7, 2026

Dear Commission,

The Rehabilitation and Community Providers Association (RCPA) is a statewide association representing more than 400 providers and stakeholders of health and human services across the Commonwealth, and our member organizations serve well over 1 million Pennsylvanians annually. RCPA is among the largest and most diverse state health and human services trade associations in the nation. RCPA members offer mental health, substance use disorder, intellectual and developmental disabilities, children's, brain injury, criminal and juvenile justice, medical and pediatric rehabilitation, and physical disabilities and aging services, across all settings and levels of care.

On behalf of RCPA and our members, please accept these questions, comments, and recommendations on the proposed revisions to Chapter 5100 that are needed to align with the requirement of Act 32 of 2022 and to be consistent with Federal HIPAA requirements.

The only question raised in our review pertains to the potential intersects with existing standards for access to records and Act 65.

Specific to the proposed regulations: Under section 5100.33 (a) "understands the nature of documents to be released and the purpose of releasing them"

Would this now be a condition in addition to a youth being 14 years or older and/or would it be necessary to document that determination was made and include a statement that the youth does or does not understand the nature of documents to be released and their purpose?

HIPAA states subpoenas without a court order are sufficient to release records but it is our understanding that currently PA does not accept a subpoena as sufficient and it must be a court order. Will that remain the same for PA and not change with PA's further alignment with HIPAA?

Lastly, our interpretation of potential intersects with Act 65; when a 14–17 year old is not consenting to treatment, a parent/guardian may consent; but the 14 year old still controls the record and parent who is consenting is only privy to enough information to consent; and the parent/guardian who consented is permitted to sign a release of information/authorization to release child's records to another provider but the parent is still not permitted to access/see the child's record without consent of the 14 and older child. Under the proposed rules, would the parent have the ability to access the age 14 and older child's record or receive a copy and/or authorize other releases of information?

We understand that Act 32 of 2022 required the Department of Human Services (Department) to promulgate regulations reflecting changes to the Mental Health Procedures Act, which include the new definitions of "business associate" and "covered entity" and the addition of covered entities and business associates to the list of entities to which the Department may disclose confidential information.

When Act 32 was signed into law the summer of 2022, it required the Department to promulgate regulations in accordance with the act. RCPA was in receipt and communicated with members the subsequent DHS issued bulletin OMHSAS-23-05, titled "Confidentiality of Records Changes Due to Act 32 of 2022 and Aligning with Health Insurance Portability and Accountability Act of 1996," to inform

stakeholders of changes to the list of permissible disclosures under section 111(a) of the act (50 P.S. § 7111(a)), and new definitions under section 103.1 of the act (50 P.S. § 7103.1).

RCPA fully supports the proposed regulations that will align departmental regulations with Act 32 of 2022 and the Health Insurance Portability and Accountability Act of 1996 (HIPAA) requirements.

We again offer our thanks for the opportunity to provide these comments on behalf of our members and those they serve. In closing, we look forward to working with the Department in the communication and ongoing implementation of the proposed regulatory changes, including the release of a Regulatory Compliance Guide after final promulgation.

Sincerely,

A handwritten signature in cursive script, appearing to read "James Sharp".

Jim Sharp
RCPA COO and Director, Mental Health Services