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House of Representatives
Commonwealth of Pennsylvania
Harrisburg

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REPUBLICAN CHAIRMAN
Sep 17 2024
Independent Regulatory
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WEDNESDAYS 10:00 A.M. TO 2:00 P.M.

September 17, 2024

Chairperson George D. Bedwick
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Commissioner John J. Soroko, Esq.
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Via Electronic Mail to: irrc@irrc.state.pa.us

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Rulemaking: #14-548 Psychiatric Rehabilitation Services (IRRC #3347)

Dear Members of the Independent Regulatory Review Commission:

On July 25, 2024, As Minority Chairman of the House Human Services Committee, I received final-form Regulation #14-548 pertaining to Psychiatric Rehabilitation Services (PRS) and shared the information with my colleagues on the committee. We have reviewed the regulation and offer the following comments.

As noted in the Pennsylvania Department of Human Services (DHS)'s letter accompanying the regulation, PRS is an evidence-based service that uses an integrated therapeutic approach to assist individuals in developing the skills needed to live, learn, socialize and work in the community and improve or maintain their physical or mental health. The final-form regulation amends Chapter 5230 to allow individuals who are 14 years of age or older but under 18 years of age who meet the admission requirements to access PRS. The regulation also expands the diagnoses that permit an individual to access PRS without using the exception process.

Pursuant to §5230.31 Admission requirements, an individual may only be admitted to PRS if the individual chooses to receive PRS. This is the current practice with respect to adults who seek to receive such services. However, this admission requirement is problematic when applied to minors.

Act 2020-65 provides that a parent or a guardian may consent to youth receiving mental health services even if the minor does not provide consent.

DHS acknowledges that the applicability of Act 2020-65 to PRS services stating the following:

“While pursuant to Act 2020-65, a parent or guardian may also consent to a youth receiving services even if the youth objects, because an individual’s consent to receive PRS is fundamental to PRS’s principles, PRS may not be provided if the youth objects to receiving PRS.” (emphasis added; see page 19 of the preamble)

As Representatives we frequently speak with parents who encounter administrative challenges when seeking mental health services for their children. We support efforts to reduce such challenges and improve access to services such as PRS. Unfortunately, the admission policy of this regulation unlawfully creates another hurdle for parents to overcome.

The admission requirement will exacerbate the confusion that exists among providers with respect to parental consent. Providers that adhere to the admission requirement may increase their legal exposure when they deny PRS to a minor who objects despite parental consent. Some providers have noted their support for a requirement that a minor choose to participate in PRS. Although it is certainly preferable for a minor to choose to participate in PRS, it cannot be required if the parent consents under current law.

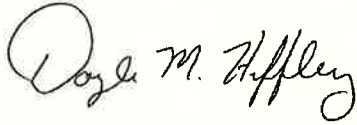
We recognize that the overall objective is to increase access for mental health services for minors and we wholeheartedly support this objective. However, the unlawful admission requirement is legally problematic. Furthermore, we are concerned that the admission requirement may be replicated in other mental health services to circumvent Act 2020-65.

Lastly, we noticed that in §5230.3 Definitions, the definition of the Diagnostic and Statistical Manual of Mental Disorders was amended from the Fourth Edition to the current version published by the American Psychiatric Association. We question whether a specific version should be referenced in the regulation to avoid a delegation of authority and to provide clarity for the provider community.

In conclusion, we support the proposed expansion of PRS, but we would be remiss if we did not address the illegality of the admission policy.

Thank you for your consideration of our comments as you review Regulation #14-548.

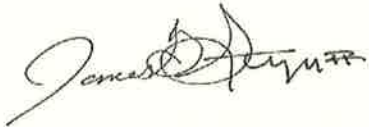
Sincerely,



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cc: The Honorable Dan K. Williams, Chair of the Subcommittee on Drugs and Alcohol,
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
The Honorable Bryan Cutler, Leader, House Republican Caucus
The Honorable Timothy O'Neal, Caucus Chair, House Republican Caucus
The Honorable Joshua Kail, Policy Committee Chair, House Republican Caucus
The Honorable Kathy Rapp, Minority Chair, House Health Committee
Dr. Valerie A. Arkoosh, Secretary of Human Services