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FOUNDATIONS
BEHAVIORAL HEALTH

VIA ELECTRONIC SUBMISSION

Department of Human Services
OMHSAS – Bureau of Children’s Behavioral Health Services
Attention: Donald Hindmarsh
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Harrisburg, Pennsylvania 17105
Email: RA-PWPRTFRegs@pa.gov
Re: Proposed Regulation #14-555: Psychiatric Residential Treatment Facilities

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To Whom It May Concern:

On behalf of Foundations Behavioral Health, we thank you for the opportunity to comment on the Pennsylvania Department of Human Services (DHS) proposed Regulation #14-555: Psychiatric Residential Treatment Facilities (PRTF). While we share the DHS’s commitment to improving PRTF services, for the reasons outlined below we respectfully urge the Commission to disapprove the proposed regulations in their current form and return them to the Department for further revisions and consultation with all stakeholders, including families, providers and managed care plans.

Foundations Behavioral Health (Foundations) provides comprehensive, family-centered care through the integration of four cornerstones into every aspect of our work: Safety, Clinical Integrity, Customer Service, and Best Practices. These cornerstones inform the delivery of compassionate, lasting, and life-changing treatment interventions and experiences that are trauma-informed, promote recovery, and foster resiliency. Foundations has been providing high quality PRTF services, with focus on evidence informed, specialized care to children, youth, and young adults with Autism Spectrum Disorder and other neurodiversities.

In this context we are committed to continuous quality improvement and agree with the goal of updating and clarifying the current PRTF regulations to help ensure efficient and effective delivery of the highest quality of care. However Foundations was disappointed in the lack of communication and discussion with providers in the development of these regulations, noting that there were two only two meetings with providers, the most recent of which occurred approximately four years ago during the height of the pandemic when providers were stretched to their limits for resources needed to serve individuals in need of behavioral health treatment.

While Foundations has several specific comments, at the outset we wanted to share two overarching concerns about the proposed regulations:

Workforce Shortages: The ongoing changes in the labor market and the significant shortages of key personnel nationwide will make it nearly impossible for many facilities to comply with the proposed regulations as drafted. In the absence of coordinated workforce development initiatives to fill the pipeline with qualified personnel, the adoption of these regulations likely will require providers to reduce capacity to comply with the staffing requirements which will increase financial stress on

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facilities and further complicate the already difficult path faced by families trying to access these services for their children.

Inadequate Payment Rates: To our knowledge there has been little or no coordination with the behavioral health managed care plans or other payors to ensure that rates are reasonably related to the costs of complying with the new proposed regulatory standards. In fact, we note that one major payor in our region has stated that current rates will not support the new requirements. While the DHS regulatory analysis suggests some rate adjustments will be considered, the salary estimates and other financial information included in the analysis appeared to be dated and does not reflect the current reality in the labor market. Moreover, the competition among providers to recruit and retain scarce personnel to comply with the new requirements will only increase the pressure on costs.

In the current environment, we would urge the Department to create a process or forum involving providers and payors to update the analysis related to cost of implementing the proposed regulations and in turn the implications for provider rates and BHMCO capitation rates. While we applaud the Department's effort to update these regulations, the end product cannot be a set of regulations that no facility can afford to implement, and no payor agrees to adequately pay for. In short, the proposed regulations should be reassessed from the standpoint of the changes in the labor market and the associated increases in the costs of delivering PRTF services. The proposed regulations as drafted fail to achieve the appropriate balance between quality, access to care, and cost.

In addition to these overarching issues, Foundations has identified several other specific areas of concern as well as questions about the proposed regulations, including certain definitions and the intent of some requirements, included below:

Staffing/Treatment Team Roles

Foundations has multiple concerns regarding PRTF role definitions and supervision requirements. First, the responsibilities placed upon the Psychiatrist in the proposed regulations would cause an undue burden and are well outside the typical responsibilities of a Psychiatrist in a PRTF setting. The provision of individual therapy for all residents monthly, as well as the supervision of several other roles (Clinical Director and RNs) and provision of direct observation would require a substantial amount of additional time and the rationale is unclear. Foundations feels strongly that the supervision of these roles is better accomplished by other leaders within the organization. To that end, if PRTFs have clinically licensed staff in other roles and/or leadership positions, it may be beneficial to consider whether they might be permitted to support with clinical supervision activities given the heavy lift for a smaller number of leaders in the proposed regulations. Additionally, it is widely known that there is a nationwide shortage of psychiatrists; utilizing psychiatrists to provide an hour of individual therapy, when other professionals are well-qualified within their scope of practice to provide this service, is not a wise use of resources. Finally, Foundations would ask for your consideration to add Board Certified Behavior Analysts (BCBAs) and BSLs to the possible credential type for the Clinical Director position. As a facility that specializes in treating neurodiverse youth and young adults, this leadership model allows us to focus our services on care that is evidence-based for our population and we believe it is worth considering allowing providers to use this highly skilled and qualified credential for providing clinical supervision as well.

Treatment Services

The proposed increase in treatment services does not account for youth attending school full-time and having the opportunity to experience normative activities, both within the program and off campus. The value of PRTF lies in providing youth the opportunity to practice and apply skills to real-life situations, within a therapeutic milieu that provides guidance, structure, and safety. The increased requirements for individual and group therapy will take away from these necessary opportunities for growth and mastery. In consideration of Nursing staffing requirements in the proposed regulations, Foundations would like clarification on how this may apply given our current program design with four cottages on one campus, and one cottage at another address nearby. Our current model is to have leadership from the primary campus, including Nursing, provide support for the offsite cottage as well, 24 hours per day, 7 days per week. We have had no difficulty getting leadership over to the offsite cottage when needed and would hope to continue to function in this capacity. Under the wording of the proposed regulations, it appears we would have to add additional Nursing and other supports for this building, which would be impractical from both a cost and functional perspective for this ten-bed cottage.

Nonallowable Costs

Foundations seeks clarity on the exclusion from the operating costs some items that are directly related to resident care, including barber/haircutting services, clothes, shoes and personal hygiene products for residents, and transportation costs associated with onsite visits by parents, guardians and caretakers, which is a necessity to assure the active involvement of families in treatment. Foundations works to ensure residents have access to items and services to meet basic needs, as well as ensures the identified family is able to visit with and participate actively and regularly in resident care, regardless of their home location or financial means. The exclusion of these costs does not best support this care philosophy, which reflect Building Bridges principles of care.

Reportable & Recordable Incidents

In both categories, additional items were included with a corresponding decrease in reporting time frames from 24 to 12 hours that will increase staffing needed to meet the expectations, and both the categories required and the timeframe for reporting exceed the standards in other states and with other stakeholders. There are also several items where the intent of inclusion requires further clarity. Foundations would like to understand the inclusion of searches of resident property in recordable incidents. Property searches are conducted regularly, including following all home passes, to ensure safety of residents and staff. It is unclear why this routine activity is considered a recordable incident. Similarly, Foundations would like additional clarity on the intent of inclusion of suicidal gesture or verbal threat of suicide or harm to self or others. It is not uncommon in a PRTF population that when dysregulated, residents may make verbal statements of this nature as a part of the maladaptive coping that they are in PRTF to work on. Sometimes this happens multiple times in a day for a resident. A better understanding of the intent and practical application of this new recordable incident would be appreciated. Foundations also seeks clarity on the definition of 'physical assault involving youth, young adult or PRTF staff', as well as the definition of 'medication error' to be used. These requirements would necessitate an increase in staffing due to the volume of what would be considered reportable, and the shortened time frame.

Visits

It is unclear in the section of the proposed regulations on Visits (5330.20) whether visits pertain to onsite as well as offsite visits. In regards to proposed expectations to contact families every 24 hours to 'check on the health, well-being and safety of a child', Foundations ensures that every family who takes a resident on a home or community pass has the contact information and means to reach Foundations staff should they require support during their time with the resident. It is unclear what additional value daily check-ins adds clinically and in the context of other proposed increases in required activities.

In closing, Foundations is committed to continual improvement and excellence in the care we provide. We appreciate the opportunity to provide feedback on the proposed regulations and hope that further dialogue will be considered. While there are always opportunities to improve program services, Foundations believes that there are perhaps alternative and more optimal ways to achieve the goals these changes are intended to accomplish. We would welcome an opportunity to continue to work with the Department and other PRTFs to identify a path forward that both meets these needs and does so in a way that is clinically appropriate and attainable.

Respectfully,



Amy Smith
Chief Executive Officer
Foundations Behavioral Health