

May 23, 2006

Julie E. Barley
Office of Mental Health and Substance Abuse Services
Bureau of Children's Behavioral Health Services
PO Box 2675
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Harrisburg, PA 17105-2675

RE: Comments on the draft PRTF Regulations

Dear Ms. Barley:

Attached please find the comments and questions generated from providers offering services to children and youth in Residential Treatment Facilities. These comments and questions were compiled by PCCYFS staff as a result of a day long meeting with provider members of both PCCYFS and PCPA. The compilation was then circulated to the membership of this jointly convened workgroup for additional input. It is my understanding that this document will be forwarded to your attention with a separate cover letter from PCPA. Please be advised that there are several comments which have been added to the attached version specifically in the definitional section.

While there are numerous concerns, comments, requests for clarification, needs for intense training and technical assistance and coordination with other regulatory chapters with implications, there are also serious concerns which must be noted as to the process by which this draft was released. Appreciating a sense of urgency within the Department to take action, the timing, process, absence of opportunity for input or review or even a courtesy notice of pending release are issues which we must raise on behalf of the private providers that we represent.

The challenges in this current service environment are numerous and very fluid. Providers have made an earnest attempt to respond to initiatives presented by the Department, to the demands from contracting/purchasing entities and to the expectations of accreditation and CMS rules. Agencies have invested resources, staff time and energy and have diversified funding to support delivery of comprehensive services. They have remained true to their missions to respond to the needs of children and families and have worked hard to achieve the desired outcomes as framed internally by governing boards as well as externally by the Department, counties and the BHMCO's. With this as the foundation, it is extremely difficult to accept the disregard for their efforts and investments given the presentation of this draft set of regulations.

During previous efforts to develop new regulations, the inclusionary process and willingness of the Department to at least hear and acknowledge diverse points of view for the initial stages of development provided insight into the underlying rationale of the focus, intent and anticipated outcomes of regulatory changes. This step has been sorely missed in the process.

There is also significant effort made to include specific references to current federal rule. Discussion in past regulatory developmental efforts have always cautioned against this as the federal rules are often altered and it becomes a challenge to then modify the existing Pennsylvania regulations. A more flexible process has been to reference current relevant sections in other rules, both federal and state, with a qualifier of the need to comply with all other applicable rules and regulations. While the substance addressed is important, the specifics to ensure compliance may be better addressed as an attachment to the licensing instrument and as a part of a training process rather than being imbedded into the regulations.

There are also several other points of general concern which we are obligated to raise. They include:

- When revisions resulting in the Chapter 3800 regulations were initiated almost 10 years ago, there were numerous concerns raised regarding the inherent difficulties in the application of a universal set of regulations for a population of children and youth so diverse in needs and abilities. The precipitating reasons for placement are diverse as are the interventions most responsive to the needs and circumstances of the children and families served.
- While this diversity still presents a challenge, private agencies have responded to variations in the population of children and youth served under this Chapter through creative program designs and continuing to identify regulatory sections requiring modification and clarity. Exceptions to specific regulatory requirements based on program dimensions are addressed through the program specific sections within the Chapter. While these may require some updates and revisions, they have provided a consistent framework
- An opportunity to address recommended changes was promised as part of a Chapter 3800 regulatory revision process. The value of having some consistent health and safety foundations has been supported with recognition of need for variations in practice reflecting the children and youth served. This revision was also anticipated as an opportunity to update some sections and incorporation of recent statutes, bulletins and policy clarifications.
- The presentation of a totally separate set of regulations for residential treatment services dismantles the original premise of cross systems approaches to service delivery. It diffuses the efforts made to work within a common framework to ensure consistency in terminology, expectations and care. It depletes efforts to coordinate services as children transition by referencing different terminology and definitional parameters. It fragments attempts to address integrated service delivery as it solidified the silo around this proposed chapter making it separate and distinct from other residential services for children.
- We believe that the desired regulatory framework addressing PRTF services could be achieved through modification of the Chapter 3800 regulations as a well orchestrated and inclusionary process through the additional of a population specific program section within the chapter.

Additional general comments include a need to crosswalk the following to ensure consistency in expectations:

- Act 147
- Mental Health Procedures Act
- HealthChoices and Medical Necessity Criteria
- Trauma Informed Care principles
- C&Y Fiscal Regulations
- MA and BHMCO Rate Setting Processes
- Desired outcomes including those crossing systems lines
- Philosophical frameworks including community based services and ready access vs. economies of scale within larger facilities and staffing
- Program designs meeting multiple requirements – accreditation, licensing, managed care, courts, C&Y and JJ systems.

A general question remains as to intention of the Department to either support or discount the concept of levels of RTF care. There has been some direction to develop population specific program designs. This has conflicted with other direction received to develop levels of RTFs within one program. Clarity as to the expectations of BHMCOs regarding these variations in PRTF designs is needed. There is little value in developing a program design that is not needed/wanted/contracted for by a BHMCO.

Efforts and supports to address continuity of care as children and youth step-down are critical as this has a direct relationship to ultimate successful outcomes. Transition/discharge planning is a critical component of program design and must be thoroughly addressed by providers while being adequately resourced by the Department.

This brings the focus to a final point - funding. The cost implications inherent within the proposed requirements are significant and must be addressed in realistic detail with as much effort and attention as the Department has paid to the practice expectations. Coordination of any and all initiatives and Departmental priorities is required to ensure that resources are appropriately, effectively and efficiently directed. The coordination of cross systems expectations, especially for the children and youth who are also involved with child welfare and juvenile justice, is especially critical to achievement of desired outcomes for them and their families.

Thank you for the opportunity to provide comment. We trust that you will consider our concerns as they are intended – as a sincere effort to support development of solutions to support improved practice and service delivery for children and families within the Commonwealth.

Very truly yours,

Bernadette M. Bianchi, LSW
Executive Director

Emailed to

ra-rtfcomments@state.pa.us on May 23, 2006

Attachment: Copy of Draft PRTF regulations with comments.