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Legislation Would Require Regulatory Process for New, Overreaching Requirements Being Imposed by DDAP

House Bill 1995 outlines when regulations would be required

HARRISBURG (Oct. 26, 2021) --- With Pennsylvania's substance use disorder (SUD) providers working to implement a new set of onerous and costly mandates before the end of the year, the House Human Services Committee today approved legislation that would address provider concerns about the lack of regulatory review that went into crafting the new Pennsylvania-specific requirements being imposed by the state.

The measure ([HB 1995](#)), introduced by Rep. Carrie Lewis DelRosso (R-Allegheny/Westmoreland), would require the Department of Drug and Alcohol Programs (DDAP) to develop regulations before implementing new requirements that would affect licensed drug and alcohol treatment providers. The deadline for SUD providers, which were weakened during the pandemic and still face significant workforce and financial strains, to meet these new mandates is the end of this year.

The legislation is a result of DDAP's plan to transition the state's addiction treatment system to the American Society of Addiction Medicine (ASAM) Criteria, a comprehensive set of guidelines for determining level of care for people with addiction and the services they receive at each level of care.

The Rehabilitation and Community Providers Association (RCPA) and its drug and alcohol treatment provider members support using ASAM to guide client placement in appropriate levels of care and the types of services they receive at those levels. However, RCPA does not support the prescriptive, overreaching requirements DDAP is imposing beyond ASAM Criteria that change regulations without having gone through the regulatory review process.

"At a time when Pennsylvanians and the treatment system itself are most vulnerable, state agencies should be looking for ways to more effectively support Pennsylvanians seeking treatment and recovery --- and costly, burdensome mandates that will narrow access to treatment programs and facilities do not achieve that goal," said RCPA President and CEO Richard S. Edley, PhD.

RCPA, which represents approximately 300 licensed treatment programs that annually provide SUD services to tens of thousands of individuals throughout the Commonwealth, supports Lewis DelRosso's measure because it would address these burdensome unfunded mandates by requiring them to undergo a regulatory review process as required by law.

"Programs are still reeling from the effects of the COVID pandemic," Edley said. "They are already chronically underfunded, and administrative and financial burdens continue to accumulate with no meaningful reimbursement rate adjustments. The ultimate result is a reduction in access to treatment. And all of this comes at a time when deaths from overdose remain at epidemic levels."

The state's ASAM transition includes several unfunded mandates that in essence circumvent the regulatory review process, according to RCPA, and go well beyond ASAM Criteria, including:

- New licensing mandates and additional burdensome staff credentialing requirements;
- New counselor staffing ratios that fail to reflect practical realities and impose unattainable hiring requirements during an ongoing workforce shortage; and
- Major programmatic changes and requirements imposed on programs.

"To be clear, RCPA and its members support ASAM. But we do not support overreaching, unfunded mandates that jeopardize the treatment system," Edley said.

If passed and enacted before the end of the year, HB 1995 effectively would address the unfunded mandate portion of the ASAM implementation by requiring the Pennsylvania-specific components to undergo regulatory review. The legislation identifies the circumstances for which DDAP must develop regulations, including:

- Implementation of new or additional licensing requirements for drug and alcohol facilities;
- Implementation of new or additional drug and alcohol staff credentialing requirements;
- Implementation of new or additional drug and alcohol counselor staffing ratios; and
- Implementation of new or major programmatic changes and requirements imposed on drug and alcohol facilities, including the requirement of adding programs that significantly increase the cost of delivering care and meeting staffing requirements.

Other organizations also are seeking changes with the state's requirements for the ASAM Criteria that go beyond the legislative solution being sought by RCPA.

The Drug & Alcohol Service Providers Organization of Pennsylvania (DASPOP) [recently sued](#) DDAP and the Department of Human Services (DHS) in Commonwealth Court of Pennsylvania over the ASAM implementation. As a part of the lawsuit, DASPOP is seeking injunctive relief that prevents DDAP and DHS from enforcing or moving forward with the ASAM alignment and other aspects of the ASAM transition until the formal regulatory review process required by Pennsylvania law has been completed.

Oral arguments are being heard by Commonwealth Court on Thursday, Oct. 28.

"The association's member providers will continue working to implement the ASAM Criteria while RCPA works with lawmakers on a legislative remedy to the unfunded mandates thrust upon providers by the Pennsylvania-specific ASAM requirements that clearly go above and beyond the national criteria," Edley said.

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With well over 350 members, the majority of who serve over 1 million Pennsylvanians annually, **Rehabilitation and Community Providers Association (RCPA)** is among the largest and most diverse state health and human services trade associations in the nation. RCPA provider members offer mental health, drug and alcohol, intellectual and developmental disabilities, children's, brain injury, medical rehabilitation, and physical disabilities and aging services, through all settings and levels of care. Visit www.paproviders.org for more information.