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## INDEPENDENT REGULATORY REVIEW COMMISSION

333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

September 24, 2024

Jim Sharp  
Chief Operating Officer  
Rehabilitation & Community Providers Association  
777 East Park Drive, Suite G4  
Harrisburg, PA 17111

Dear Mr. Sharp:

I am writing to advise that we have completed our review of existing regulations codified at 55 *Pa. Code* Chapters 1155 and 5240 as requested in your correspondence dated November 29, 2022. In your letter, you asked the Commission to “reopen for review” Department of Human Services Regulation #14-546 providing for Intensive Behavioral Health Services (IRRC #3209). We interpreted this request as a request to review the regulation under the Section 8.1 of the Regulatory Review Act which provides that the Commission may review any existing regulation which has been in effect for at least three years, 71 P.S. § 745.8a. Based on our review of this regulation, we have determined that further action by the Commission is not warranted in this matter.

First, I wish to thank you for your patience in awaiting our review and response in this matter. As previously indicated to you, your request arrived shortly after our receipt of a series of legislative requests to review existing regulations. Under the Regulatory Review Act, legislative requests receive priority over other such requests. The extensive project for the legislature covered rulemakings from 10 different agencies, including 40 prior rulemakings, 103 additional Chapters of regulations, and two subchapters and delayed action on the request from your organization until the completion of that time-consuming undertaking.

Turning to your request, your correspondence noted burdens placed on providers by the Department of Human Services regulations and offered alternative language to replace certain existing provisions of those regulations. We appreciate the concerns that you expressed concerning these regulations and the efforts of your organization to compile and suggest alternatives. Please note, however, that when conducting a review of existing regulations, our role is to determine whether existing regulations – as a whole – remain in the public interest. While we may issue recommendations to the promulgating agency, we may only do so upon a finding that the regulations are contrary to the public interest.

Mr. Jim Sharp  
September 24, 2024  
Page 2

In reviewing this matter, our staff researched the regulatory requirements and relevant statutory provisions, reviewed materials and comments from the rulemaking, and examined the minutes from the Commission's August 15, 2019 public meeting when the regulation was considered. We also shared your correspondence with the Department of Human Services and reviewed its response to your concerns. The statutory provisions governing this area have not changed since that time and we note that most of the concerns expressed in your correspondence were previously raised by your organization when this regulation was first proposed, after it was delivered in final form, or at both stages of the regulation's promulgation.

These regulations provide important licensing standards and program requirements for Intensive Behavioral Health Services in the Commonwealth. The rulemaking was unanimously approved by our Commission just three years prior to your request and the issues raised in your correspondence were carefully and thoroughly considered prior to the Commission's approval of this regulation. The Department of Human Services indicates that the number of providers has increased since these rules took effect. It also notes the availability of waivers for the regulated community. Therefore, we have determined that no further action is necessary on your request. We urge you to continue to work with the Department of Human Services on possible updates or improvements to this program. Your members may also wish to avail themselves of possible waivers of certain provisions, as appropriate.

By copy of this correspondence, we are notifying the Department of Human Services that we are closing our review without recommendation. We thank them and their staff for their cooperation in this matter and encourage them to continue working with you and other stakeholders on this and other important programs.

If you have any questions or would like to discuss the matter further, please feel free to contact me at (717) 783-5417.

Very truly yours,



David Sumner  
Executive Director

cc: Valerie A. Arkoosh, MD, MPH, Secretary of Human Services