Position Paper

Drug and Alcohol Licensing Problems and Recommendations for Changes

Background
The Pennsylvania Community Providers Association (PCPA) is a trade association representing over 220 community-based agencies that provide mental health, intellectual disabilities, substance abuse, children’s, and other human services. PCPA members cover all 67 counties in the commonwealth and it is estimated that they serve almost one million Pennsylvanians each year. Founded in 1972, PCPA represents providers on legislative and regulatory matters and serves as a point of contact with other statewide organizations.

The PCPA Drug and Alcohol Committee established a work group to once again focus on problems members were experiencing related to drug and alcohol licensing. PCPA has focused on these issues many times in the past and has seen some positive changes. The work group is hopeful that more needed changes will occur as a result of a careful review and well-articulated recommendations for change.

PCPA members have identified that the current drug and alcohol licensing regulations and interpretations create barriers for clients to access services, add unnecessary cost to programs, and impede efficient/effective program management. Members also believe that a tremendous amount of state funds are wasted on outdated and unnecessary regulations. Even more tragic is the fact that, in some instances, clients are simply regulated right out of service due to the obstacles to treatment that these regulations and interpretations create.

There may have been a time when this type of over-regulation and micro-management was needed in the drug and alcohol program. Today, with a more medical/chronic disease service delivery system model, it is not needed. The programs now work closely with managed care organizations and follow HIPAA regulations. Program staff is better educated/credentialed than ever before. The current regulations are costly and detrimental to the system and to the client needing treatment. Providers are subject to various payors who monitor services in numerous ways including credentialing of programs/clinicians (program standards and staff qualifications), systems usage monitoring (access to care, utilization review, and crisis management), clinical auditing (confidentiality, client participation in treatment decisions, coordination of care), and financial auditing (fraud and abuse).

The current workforce has struggled for too many years to comply with the licensing regulatory process. PCPA members believe the licensing regulations have caused high staff turnover from undue stress related to complying with over-burdensome training, excessive documentation requirements, and extensive administrative monitoring. As stated previously, many of the regulations are no longer necessary as providers have other external monitoring that ensure quality of care. The very people who the regulations were intended to protect are in fact now being harmed by them.
Staffing Regulation Problems and Recommendations

- **The staffing ratios are inappropriate and must be eliminated.** Due to current staffing ratios, many clients cannot enter treatment and must be placed on a waiting list. No client should have to wait for treatment due to an arbitrary regulation. The cost of treatment delays is extremely high as many clients end up in a higher level of care, an emergency room, or incarcerated because of the waiting period. Staffing ratios are an excellent example of the micro-management that exists in this system. The most troublesome are the 35:1 for outpatient, the 10:1 for partial hospitalization, the supervisor to counselor ratio, and the staffing requirements for medically monitored detox. The ratios negatively impact the quality of care and inappropriately influence clinical practice. All of these ratios are problematic, seriously impede access to care, and need to be eliminated.

- The **training requirements and interpretations are too extensive**, especially the number of hours required and the timeframes in which these hours must be completed. Current requirements far exceed those of all other licenses. One example is the amount of training required for clerical/medical records staff that have very little contact with clients. A revision should be made and the requirements should be more reasonable and in line with other licenses in Pennsylvania.

- **The requirements for direct observation for the counselor assistant are too cumbersome** and should be tailored to the needs of the specific staff. This regulation should be eliminated.

- Some excellent candidates for counselors do not meet current requirements (or interpretations) for degrees/majors such as teaching, divinity, and criminal justice. Some even come with years of training and experience and cannot be hired because of the “wrong” degree. This regulation should be eliminated and more reasonable, less onerous standards applied.

General Regulation Problems and Recommendations

- The miscellaneous administrative regulations need to be eliminated/ revised. (Proposed regulations being considered)

- Audits do not need to be completed every year, especially if the findings are positive. Changes need to be made to the regulations that do not require yearly reviews for all agencies or different level of reviews based on previous findings. **The audits should be completed every two or three years.**

- The language in the current drug and alcohol regulations needs updated to reflect best practice. For example, the term of “outpatient chemotherapy” should not be used for a facility providing medication-assisted treatment such as methadone. Also, the term “drug free” facility is outdated, inaccurate, confusing, and should be eliminated.

- The regulations for halfway houses should be finalized or clarified. The current regulation practice holds to an inappropriate standard.
While the *exception process* is presented as an option for the provider, members have reported that the requests are rarely approved. **A more positive exception process should be in place.**

- There is no formal appeal/complaint process. **An appeal process must be established and it must include an impartial body.**

- *Arbitrary timeframes* are sometimes imposed and are not in regulation, i.e., the fiscal audit. **These arbitrary timelines should be eliminated.**

- The regulations should be in line with the **new technology and not impede it; such as enhancing the use of electronic records.**

**Process Problems and Recommendations**

- **D&A licensing auditors should look for reasonable thresholds.** For example they should not cite providers for instances of only “1 in 100.”

- Regulation requirements should be kept separate from suggestions. No suggestions should be provided and only requirements outlined.

- The provider should be **allowed the opportunity to find needed information in another location in the agency** and should not be cited just because it is not all in the same manual. In the same vein, if the **appropriate document can be produced during the time of the audit the provider should not be cited.**

- Other audits only review specific items if changes have occurred or they review only the items from the previous audit that required corrective action. **These methods should be considered by D&A Licensing.**

- D&A licensing auditors request to also see mental health charts. **Auditors should only be reviewing D&A charts.**

- Some **special consideration should be given when a particular requirement can not be met due to no fault of the provider.** For example, if the only training available for supervisors or case management is through the Bureau of Drug and Alcohol Programs and that training is cancelled the provider should not be cited.

- **More flexibility must be allowed for scheduled audits.** The Department of Health has the luxury of changing scheduled visits with little notice, but providers are not permitted to do so.

- **Regulating via bulletin/interpretive guidelines is inappropriate and should be discontinued.** The interpretations are not regulations and go far beyond the original intent.

- The length of time of the audit should be reduced. The audit should not take three to five days. The long audit is disruptive to the agency. The adoption of some of the recommended changes might help to reduce the audit time.
Licensing Staff Problems

- Most D&A licensing auditors have a punitive approach versus a coaching and collaborative approach used by some other auditors. In many cases there is a significant difference with other audits, such as mental health, JCAHO, and CARF which are more provider-friendly and client/consumer-focused. It appears that sometimes the D&A Licensing auditors are working to find as many non-compliance issues as possible. A more positive provider-friendly and client/consumer-focused approach should be implemented.

- The lack of experience of some auditors is a problem and takes much more time for the audit to be completed, which is costly for the provider. Some have low clinical competencies. Additional training should be provided for some auditors.

- The varying interpretations of the standards cause confusion and undue stress. Sometimes different auditors breed a lack of consistency. At one visit something is considered acceptable and then unacceptable by a different auditor at the next visit. This has even occurred when the same auditor repeats for several consecutive years. Consistency is crucial to a positive process and must be assured.

PCPA recommends that the Division of Drug and Alcohol Licensing implement as many recommendations listed as possible and simultaneously organize a special time-limited work group to draft new regulations to address the problems/needed changes outlined in this paper.