

RULES AND REGULATIONS

DEPARTMENT OF DRUG AND ALCOHOL PROGRAMS

[28 PA. CODE CH. 701]

General Provisions

[44 Pa.B. 6658]

[Saturday, October 18, 2014]

The Department of Drug and Alcohol Programs (Department) amends §§ 701.1, 701.3 and 701.13 (relating to general definitions; legal base; and contact person) to read as set forth in Annex A. The purpose of this final-omitted rulemaking is to bring clarity and consistency to the regulations.

This final-omitted rulemaking is a matter of housekeeping to bring these regulations in line with the act of July 9, 2010 (P. L. 348, No. 50) (Act 50). Effective July 1, 2011, the responsibility for all obligations related to drug and alcohol in this Commonwealth was transferred from the Department of Health to the Department.

This final-omitted rulemaking amends Chapter 701 (relating to general provisions) to clarify that the Department is the Commonwealth agency responsible for drug and alcohol treatment and prevention in this Commonwealth. Specifically, this final-omitted rulemaking changes the heading of Part V from "Drug and Alcohol Facilities and Services" to "Department of Drug and Alcohol Programs," amends the definition of "Department" from the Department of Health to the Department in § 701.1, adds Act 50 to § 701.3 and updates the contact person in § 701.13 from the Department of Health to the Department.

A. *Effective Date*

The final-omitted rulemaking will be effective upon publication in the *Pennsylvania Bulletin*.

B. *Contact Persons*

For further information concerning the final-omitted rulemaking, contact Ronald G. Young, Director, Division of Program Licensure, 132 Kline Plaza, Harrisburg, PA, 17104, (717) 783-8675; or Tawny K. Mummah, Deputy General Counsel, Counsel to the Department of Drug and

Alcohol Programs, 333 Market Street, 17th Floor, Harrisburg, PA 17101, (717) 783-6563. The final-omitted rulemaking is electronically available on the Department's web site at www.ddap.pa.gov.

C. Statutory Authority

This final-omitted rulemaking is authorized under Act 50, which created the Department. Specifically, Act 50 added section 2301-A of The Administrative Code of 1929 (71 P. S. § 613.1) and provided the Department with the power to promulgate rules and regulations necessary to carry out the provisions in paragraph (9) of this section.

D. Background and Purpose

Act 50 transferred the powers, duties and functions of the Department of Health concerning drug or alcohol abuse to the Department. The goal of this final-omitted rulemaking is to provide clarity and consistency to the regulations.

The Department is satisfied there is no reasonable alternative to proceeding with this final-omitted rulemaking. The Department is also satisfied the final-omitted rulemaking meets the requirements of Executive Order No. 1996-1, "Regulatory Review and Promulgation."

E. Summary of Regulatory Requirements

The final-omitted rulemaking is needed to make the drug and alcohol regulations consistent with Act 50 and is in response to comments to the Department's proposed rulemaking 74-1 by the Independent Regulatory Review Commission (IRRC). When reviewing the Department's proposed rulemaking to amend Chapter 709 (relating to standards for licensure of freestanding treatment facilities), IRRC raised a concern that there was a need for clarity in the drug and alcohol regulations. See 44 Pa.B. 6660 (October 18, 2014) for final-form rulemaking 74-1.

Citizens in this Commonwealth will benefit as the regulations will now clearly reflect the General Assembly's decision to make the Department the agency responsible for drug and alcohol treatment and prevention.

This final-omitted rulemaking changes the heading of Part V from "Drug and Alcohol Facilities and Services" to "Department of Drug and Alcohol Programs."

The definition of "Department" in § 701.1 is amended to change the Department of Health to the Department.

Act 50 is added to the list of authorizing statutes in § 701.3.

The contact person in § 701.13 is changed from the Department of Health to the Department.

F. Benefits, Cost and Compliance

The sole benefit of this final-omitted rulemaking is to provide clarity and consistency between Act 50 and the drug and alcohol regulations. There is no cost or compliance associated with this final-omitted rulemaking because it merely reflects the transfer of the obligation for drug and alcohol treatment and prevention from the Department of Health to the Department.

G. Regulatory Review

Under section 5.1(c) of the Regulatory Review Act (71 P. S. § 745.5a(c)), on July 8, 2014, the Department submitted a copy of the final-omitted rulemaking and a copy of a Regulatory Analysis Form IRRC and to the Chairpersons of the House Human Services Committee and the Senate Committees on Public Health and Welfare. On the same date, the regulations were submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506).

Under section 5.1(j.2) of the Regulatory Review Act, on September 3, 2014, the final-omitted rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on September 4, 2014, and approved the final-omitted rulemaking.

Findings

The Department finds that:

(1) The adoption of the final-omitted rulemaking in the manner provided in this order is necessary and appropriate for the administration of the authorizing statute.

(2) Under section 204 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1204), known as the Commonwealth Documents Law (CDL), the Department finds that the proposed rulemaking procedures in sections 201 and 202 of the CDL (45 P. S. §§ 1201 and 1202) are unnecessary because it is in the public interest to expedite these amendments.

Order

The Department, acting under the authorizing statute, orders that:

(a) The regulations of the Department, 28 Pa. Code Chapter 701, are amended by amending §§ 701.1, 701.3 and 701.13 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(b) The Secretary of the Department shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for approval as required by law.

(d) The Secretary of the Department shall certify and deposit under this order and Annex A with the Legislative Reference Bureau as required by law.

(d) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

GAROLD E. TENNIS,
Secretary

(Editor's Note: See 44 Pa.B. 6660 (October 18, 2014) for a final-form rulemaking by the Department relating to this final-omitted rulemaking. See 44 Pa.B. 6658 (October 18, 2014) for a document transferring Department regulations.)

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 44 Pa.B. 6051 (September 20, 2014).)

Fiscal Note: 74-2. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 28. HEALTH AND SAFETY

PART V. DEPARTMENT OF DRUG AND ALCOHOL PROGRAMS

CHAPTER 701. GENERAL PROVISIONS

Subchapter A. DEFINITIONS

§ 701.1. General definitions.

The following words and terms, when used in this part, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Department—The Department of Drug and Alcohol Programs of the Commonwealth.

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§ 701.3. Legal base.

This part is issued under the authority contained in the following statutes:

(1) The act, as transferred to the Department by Reorganization Plan No. 4 of 1981 (P. L. 610) (71 P. S. § 759-4).

(2) The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. §§ 780-101—780-144).

(3) Articles IX and X of the Public Welfare Code (62 P. S. §§ 901—922 and 1001—1088), as transferred by Reorganization Plan No. 2 of 1977 (P. L. 372) (71 P. S. § 757-2) and No. 4 of 1981 (71 P. S. § 757-2).

(4) The Health Care Facilities Act (35 P. S. § 448.101—448.904b).

(5) The act of July 9, 2010 (P. L. 348, No. 50), codified in section 2301-A of The Administrative Code of 1929 (71 P. S. § 613.1).

Subchapter B. EXCEPTIONS

§ 701.13. Contact person.

Questions concerning this part should be directed to the Department of Drug and Alcohol Programs, Division of Program Licensure, 132 Kline Plaza, Harrisburg, Pennsylvania 17104.

¹ The act of July 16, 2004, (P. L. 758, No. 94), 53 Pa.C.S. §§ 5701 et seq., as amended (the "act").

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