#11LIC OTA Looker

In response to Title 212 – Department of Behavioral Healthcare, Developmental Disabilities and Hospitals

Chapter 10- Licensing and General Administration

Subchapter 10

Part 1 – Rules and Regulations for the Licensing of Organizations and Facilities Licensed by the Department of Behavioral Healthcare, Developmental Disabilities and Hospitals

Dear Sir or Madam: First and Foremost, thank you for your effort in reviewing the regulations to meet the needs of the behavioral health landscape as it is today. However, upon review of these regulations it appears not only does it not reflect the behavioral health needs of today nor do they reflect forward thinking of the needs of tomorrow. After a review, it appears the bulk of these regulations are appropriate for the Developmental Delay (DD) population and/or Residential Population. Many of these regulations herein would not be appropriate for outpatient treatment, especially, Opioid Treatment Programs. This leaves me questioning the following:

- At licensing audits would we be required to somehow meet regulations which are not necessarily applicable to an outpatient setting?
- If we are not required to meet certain regulations set forth, how would this be determined, and would this information be included in the promulgation of new regulation to ensure agencies are protected from being cited on a regulation which does not pertain to their individual setting?

Please accept the following questions and comments:

Section 1.4.1: Please define a Behavioral Health Crisis.

Section 1.4.2.C.1.E and F: Because of accreditation we are required to have a culture and diversity plan. Would this suffice for these two regulations?

Section 1.6.3.5.B: Please define what Validation is “validation shall be recorded no later than two (2) weeks after completion of the plan.” Is validation the signature which is required?

Section 1.6.5.G: In an OTP, how long should records remain open? We are required to update and close records with RIBHOLD on a daily basis. Will this conflict with the RIBHOLD requirements?

Section 1.6.9: Does this section apply to OTP’s who provide only substance abuse services?

Section 1.6.14 A.5.d. Where does this regulation come from? How was this ratio arrived at? First and foremost, Rhode Island has a workforce shortage of clinicians to provide services, especially in OTP's. For years we have shared our shortage concern with the Department. This ratio does not take into consideration the following: what is the acuity of the patient? How long have they been in treatment? Are they seen individually on a weekly, monthly or quarterly basis? What is the education, licensure status and abilities of the clinician? Generally speaking, patients new to treatment or struggling with recovery require more intensive treatment while those individuals who have been in treatment for numerous years require less intensive services. It seems arbitrary to put a ratio in regulation without consideration of all the factors involved including reimbursement rates, duties to be carried out by the clinician, state requirements of the frequency of counseling, etc. A full-time employee will average 173.3 hours per month. If you take out a minimum of 60 hours direct care, 4 hours supervision, 4 hours staff meeting, 15.2 hours lunch, and 20 hours per month to account for sick, personal, vacation, holiday time, you are still left with 70.1 hours per month for productivity. The Opioid Treatment Association of Rhode Island, which consists of five agencies and 16 locations are willing to meet with the Department determine if a ratio is appropriate and what the ratio should be while taking into consideration the above factors. We respectfully ask this be omitted until that time.

Section 1.6.14.A.23.B.2: "OTP's must offer and provide Health Home services to clients who meet eligibility requirements." I am curious as to why this is a requirement for OTP's and not a requirement for CMHC's? Because we are required to offer these services, we are also required per the State Plan Amendment (SPA) to be accredited as a health home. The accreditation for health home is an added expense over and above accreditation. The cost of accreditation was never factored into the reimbursement rate. Dependent upon the number of locations an agency has the cost can be between $4,000 and $12,000 per accreditation cycle. In addition, reimbursement rates were slashed 39% to this program without a change in team composition resulting in a reimbursement rate which does not support cash flow needed to meet program staffing requirements set forth in the SPA. The requirement for OTP's to offer and provide health home services should not be required and be optional as it is with CMHC's. We respectfully ask this be omitted.

OTP leadership spent months participating in various committees reviewing and revising the regulations to meet the Governors request of reducing the number of burdensome regulation and creating regulation which was not in conflict with accreditation or duplication of other State and Federal regulation. However, what was posted for review is drastically different from

the draft regulations from those meetings. Without changes to the regulations as submitted before being approved, OTP providers will be in a difficult position for the round of licensing audits which will begin in early 2019.

The Opioid Treatment Association of Rhode Island, which is made up of the 5 agencies and 16 locations, treating over 6,500 individuals on a daily basis is asking you review our recommendations and incorporate them into final regulation.

Sincerely,

Wendy M. Looker, RN, BS
Chair
Opioid Treatment Association of Rhode Island