HUMAN SERVICES

DIVISION OF MENTAL HEALTH SERVICES

Community Mental Health Services; Community Residences for Mentally Ill Adults; and Psychiatric Community Residences for Youth

Licensure Fees

Adopted Amendments: N.J.A.C. 10:37-10.1, 10.4, 10.5, 10.7, and 10.9; 10:37A-2.1, 2.6, and 2.8; and 10:37B-1.1, 2.1, 2.3, and 2.6

Adopted New Rules: N.J.A.C. 10:37-10.5; 10:37A-2.2, and 10:37B-2.2

Proposed: September 15, 2003 at 35 N.J.R. 4200

Adopted: January 30, 2004 by Gwendolyn L. Harris, Commissioner, Department of Human Services

Filed: February 2, 2004 as R.2004 d.91, with technical changes not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 30:9A-10 and 21, P.L. 2003, c.122; and 30:9A-19 as amended by P.L. 2003, c.117.

Effective Date: March 1, 2004

Expiration Dates: July 2, 2006, N.J.A.C. 10:37

June 4, 2004, N.J.A.C. 10:37A

April 22, 2004, N.J.A.C. 10:37B

Summary of Public Comments and Agency Responses:

The Department accepted comments on the proposal through November 14, 2003. The following persons submitted written comments:

1. Angela Estes, M.Ed., Executive Director, Robin's Nest, Inc.;

2. Paula C. Fitzsimmons, Ed.S., Clinical Director, Pathways Counseling Center, Inc.;

3. Geraldine Moon, Sr. Vice President, and James Lape, Chairperson, New Jersey Hospital Association;

4. Richard E. Murray, FACHE, President and CEO, Kennedy Health System;

5. Joseph P. Scarpelli, D.C., Mental Health Administrator, Essex County;

6. Gary Van Nostrand, President/CEO, SERV Centers of New Jersey, Inc.; and

7. Debra L. Wentz, Ph.D., CEO, New Jersey Association of Mental Health Agencies.

The submitted comments and the Department's responses are summarized below. The numbers in parentheses after each comment identify the respective commenter(s) listed above.

1. COMMENT: Charging a fee for each program operated at each site will impose a redundant and unnecessary financial burden on provider agencies. (3, 4)

RESPONSE: The Department recognized the potentially burdensome economic impact of charging a fee for each program at each site and

incorporated a reduced fee for multiple sites of the same types of programs. Doing so was intended to recognize the redundancy of program procedure/policies but nonetheless recognize that each site required visits, may have unique issues, and may represent differences that should be acknowledged. In this regard, all programs currently licensed to provide community and residential mental health services must pay an annual licensure renewal fee of $575.00 (except for supportive housing residence providers, which will be required to pay $100.00 per residence) for each program element they operate, plus an additional, reduced fee for each program or site within the program element for which they are licensed. The reduced fee would be 50 percent of the first license within a program element, or $287.50 (50 percent of $575.00). For example, an agency licensed to provide three outpatient programs will pay a total of $1,150.00 in licensure fees – a fee of $575.00 for the first program, plus a fee of $287.50 for each of the other two programs. If that agency is licensed to provide additional program elements, the same formula would apply resulting in additional fees – for example, if that agency is licensed to operate adult partial care (APC) programs, it would pay a fee of $575.00 for the first APC program and $287.50 for each of the additional APC programs.

2. COMMENT: The quality of mental health programs is already assured through JCAHO accreditation, for which agencies pay substantial fees.

The imposition of additional fees would be duplicative, financially burdensome, and without added benefit. One agency chose to drop JCAHO accreditation three years ago because it was cost-prohibitive; yet, the proposed fees are twice as much as the dropped JCAHO fees. (3, 4, 6)

RESPONSE: The Department respectfully disagrees with the commenters' suggestion that accreditation is a substitute for licensure. While accreditation is recognized in licensing procedures and can, in part, have deemed status for some standards, it may not entirely overlap in all areas of importance to citizens' concerns. In this regard, the legislative intent underlying the statutory requirement for licensure fees recognized that licensure is a discrete process that evaluates different aspects of a program than does the accreditation process. Moreover, in requiring that all mental health programs be licensed, the Legislature was aware that some agencies seek and are awarded accreditation from other private entities. Thus, it determined that accreditation status (which is voluntarily assumed) might not be sufficient to automatically assure the effective delivery of high quality mental health services.

3. COMMENT: The monies necessary to cover licensing fees will have to be diverted from direct-care services and thus, without a corresponding increase in funding or subsidies, the assessment of licensing fees amounts to funding cuts. (1 through 7)

RESPONSE: While costs of providing mental health services are understood to be of concern to a number of provider agencies, the purpose of licensing fees was not contemplated by the legislature as a funding cut. Rather, licensing fees were utilized for mental health services as in similar services and to assure that costs associated with the licensing process were, in part, offset by publicly funded and non-publicly funded provider agencies that benefit from such licensure. While the Department recognizes the difficulties posed by strained budgets, it believes that charging licensure fees is a fair and equitable way of spreading the financial burden of assuring the effective delivery of high quality mental health services.

Federal Standards Statement

Executive Order No. 27(1994) and N.J.S.A. 52:14B-1 et seq. (P.L. 1995, c.65) require State agencies that adopt, readopt, or amend any State rule or regulations that exceeds any Federal standards or requirements to include in the rulemaking document a Federal standards analysis. The proposed amendments are not promulgated under the authority of or in order to implement, comply with or participate in any program established under Federal law or a State statute that incorporates or refers to Federal law, standards or requirements. Accordingly, Executive Order No. 27(1994) and N.J.S.A. 52:14B-1 et seq. (P.L. 1995, c.65) do not require a Federal standards analysis.

Full text of the adoption can be found under Regulations on the Division of Mental Health Services website. Click here to view.