

## Regulatory Efficiencies

Governor Christie's 2012 Red Tape Review Commission was charged with forming recommendations to make state regulations less costly for business and nonprofits. The commission recognized that nonprofits save "... taxpayers untold dollars by providing vital programs and services that make our communities better places to live, work and visit ..." and, as such, they are an important part of New Jersey's economy. However, as expressed by Lieutenant Governor Kim Guadagno, Commission Chair, "... onerous and burdensome red tape is like death by a thousand paper cuts...", taking "... money from business and jobs from workers."

Specific to nonprofit behavioral health providers, it is essential, especially in this period of such rapid reform in the national healthcare environment, for the state, in partnership with providers, to review the present regulatory environment with an eye toward encouraging a more sustainable, effective, efficient, transparent and innovative service system. State laws, regulations, and policies require systematic review to reduce the administrative burdens on nonprofits, to the greatest degree possible, to the ultimate benefit of the hundreds of thousands of poor and low-income children, adults and families served annually by the nonprofit behavioral health provider community. As stated by the Red Tape Review Commission, "There remain numerous ways in which regulations, policies, and, in some cases, statutes could be changed in order to reduce needless duplication and improve efficiency and effectiveness, toward the ultimate goal of ensuring that services are available and provided in the best manner possible."

As federal directives are incorporated into a new healthcare delivery system, and with the approval of the Comprehensive Medicaid Waiver, it is increasingly important that the state simplify, restructure and reform New Jersey's regulatory requirements governing mental health and addiction treatment providers. To operate efficiently in this transformative healthcare environment, New Jersey needs to identify and streamline policies, regulatory processes and reporting requirements that are redundant or onerous and rescind or revise those that are unnecessary, extraneous or obsolete.

New Jersey's regulatory climate tends to thwart innovation and often unreasonably adds to the cost of providing services. New Jersey's laws and regulatory standards must allow New Jersey mental health and addiction treatment providers to operate in an administrative environment that encourages innovation and affordable quality care. The state must also look for ways to increase coordination among various divisions and departments of government and eliminate regulatory barriers that decrease access and unnecessarily add to the cost of providing services.

Multiple topic areas are in noticeable need of streamlining and coordination, as they consume an inordinate amount of provider time and resources. These include contracting processes; licensing standards; audits; staff education and experience; data collection; and unfunded mandates.

Uniform Licensing Standards for Mental Health and Substance Abuse Programs:  
Uniform licensure standards should be adopted for programs that provide

comprehensive mental health and addictions services in order to assure the development of a more integrated system of treatment for consumers with co-occurring disorders. As the New Jersey Co-Occurring Mental Illness and Substance Use Disorders Task Force (convened 2009-2010) recognized, there have been "... difficult and longstanding systemic barriers to the integration of MH [Mental Health] and SA [Substance Abuse] treatment such as separate administrative structures, funding mechanisms, priority populations." The task force recommended that the separate and distinct regulatory standards governing mental health programs and substance abuse programs be reviewed toward the development of common standards in areas such as staff qualifications, licensure, and records. The present siloed approach works against integrated care at a time.

Unfunded Mandates: All too often state laws, regulations and/or policies are introduced or expanded that impose new and/or extended functions or responsibilities on nonprofits that will incur a material expense for providers to fulfill. Fiscally-stretched nonprofits are in no position to meet these new challenges without the very real possibility of reducing the number of individuals they are able to serve or the extent of clinically necessary services they can offer. Prior to the imposition of costly and unfunded mandates, impact analyses must be conducted so that funds may be appropriated or provided to support the provision. Behavioral health providers must be a part of these analyses.

Centralized Contracting: The state should combine and streamline contracting requirements as much as possible within and across departments. One provider can have numerous contracts within multiple divisions within the Departments of Human Services, Children and Families, Education, Health and other departments. Each of those contracts may require the submission of the same information, such as an organization's board of directors and financial statements. Both the state and providers could save significant time and resources by eliminating this wasteful duplication and maintaining a centralized repository of this information.

Deemed Status: To realize operational efficiencies, the state must, as recommended by Governor Christie's Red Tape Commission, July 2011, "... implement 'deemed status' to recognize the national or international accreditations of nonprofits and providers in order to streamline repetitious state monitoring, licensing and auditing practices." Pioneering states have implemented this form of recognition and succeeded in eliminating duplicative monitoring and licensing practices.

Although site visits would still be required, the nature of the visits would be less extensive and less duplicative, inevitably resulting in state savings and wiser use of nonprofit providers' staff time.

Performance-Based Audits: Multiple fiscal year audits conducted by the state and also performed by outside entities retained by the state consume a great deal of provider time and attention. These inspections often entail auditors spending extended periods of time at the organizations, despite the fact that providers have

annual contractual obligations to hire independent auditors. NJAMHAA recognizes the need for audits when an organization has not demonstrated vigilance in its accounting procedures. However, state resources could be better directed by not subjecting organizations with more than five years of clean audits to duplicative and extensive auditing that can last weeks and months at a time and at a significant cost to both the state and providers.

Staff Education and Experience: The increasing narrowing of staff credential and experience requirements is not consistent with the state's principles of Wellness and Recovery. Despite the continuing difficulties faced by nonprofits in recruiting and retaining staff, the state requires that staff hired for numerous types of programs must possess one, and sometimes two, years of experience, which reduces providers' ability to recruit otherwise qualified and capable staff. Another impediment is the narrow set of educational degrees staff is required to hold to qualify for positions in nonprofit organizations. These requirements reflect neither current practice in the field nor the growing complexity of the individuals presenting for services. Given the lack of credentialed individuals in New Jersey, and the state's efforts to move toward managing behavioral healthcare through an Administrative Service Organization/Managed Behavioral Health Organization (ASO/MBHO), NJAMHAA believes experience and education accommodations will need to be made in order to support increasing capacity demands and emerging practices in the field suited to the treatment of those served by nonprofit providers.

Exacerbating the staff recruitment and retention issues experienced by nonprofits is the revised language in Department of Human Services (DHS) and Department of Children and Families (DCF) Third Party Provider Contracts. The revised contract language places restrictive limits on staff training and tuition reimbursement that has a chilling effect on the sustainability of nonprofit providers who have not had cost-of-living increases in their contracts over multiple years. These contract restrictions will hit hard those agencies that provide services to some of the most vulnerable children and adults in this state – adults with serious behavioral health issues and children with serious emotional disorders. Tuition reimbursement is a strong enticement to attract qualified staff to nonprofits that constantly compete with other sectors that routinely offer higher salaries and richer benefits, such as the education and state government sectors.

Centralized Data Collection: Health reform has placed an increased focus on outcomes and performance, placing more importance on the creation and collection of a variety of data. For providers with multiple state contracts, data collection and reporting requirements have become onerous and duplicative. NJAMHAA supports proposed state plans to develop a centralized database, and believes New Jersey should provide incentives for provider businesses that coordinate data in a timely manner. With the proposed plans for transmission of behavioral health claims and risk screening to managed care organizations, NJAMHAA strongly advocates for state technical assistance and additional resources for data exchange between the Administrative Services Organization (ASO)/Managed Behavioral Health

Organization (MBHO) and the Managed Care Organization (MCO) providers for prior authorization, billing and provider census tracking. NJAMHAA urges that ASO/MBHO and MCO systems be interoperable. Electronic information systems must allow seamless transfer of data across providers, the ASO/MBHO and the MCOs.

As NJAMHAA was a member of the Red Tape Commission, several commission recommendations are reflected in its support positions listed below.

#### *NJAMHAA Supports*

- ✓ The promotion of regulations and policies that result in operational, administrative and fiscal efficiencies.
- ✓ Elimination of unfunded mandates imposed by the state.
- ✓ Implementation of “deemed status” to recognize the national accreditations of nonprofits and providers in order to streamline repetitious state monitoring, licensing and auditing practices.
- ✓ Creation of an advisory group of nonprofits, along with the state, to regularly review state regulations and policies affecting nonprofit behavioral providers. Within these discussions, although uniformity of regulations is important, regulations should be flexible enough to allow for the development of specialized services for specific populations in order to promote their growth.
- ✓ The creation of a centralized contracting unit to cut down on redundancies and duplicative monitoring and reporting.
- ✓ Review and revision of the current prompt payment requirements to prevent cash flow problems and ensure continuity of service.
- ✓ Consolidation of licensing, inspections, monitoring and auditing requirements to minimize duplication.
- ✓ Review by the Division of Mental Health and Addiction Services, in collaboration with providers of co-occurring services, of state regulatory standards and the development of common standards and requirements for mental health and for substance abuse treatment programs, in areas such as: staff qualifications, physical plant, licensure, administrative records, etc.
- ✓ Rewarding efficiencies by allowing organizations to reinvest in contracted programs or to retain modest reserves for unanticipated program-related needs.
- ✓ The utilization of up-to-date technologies to facilitate coordination, compliance, filing of reports, and contract processes.
- ✓ Exploration of cost-saving measures that provide regulatory relief without impacting overall quality of care.
- ✓ Coordination of site visits to best utilize staff time and end lengthy and often unnecessary site reviews that take staff time away from direct care services.
- ✓ Adoption of uniform licensure standards for programs that provide comprehensive mental health and addictions services.
- ✓ State approval for providers to hire staff with a variety of degrees, as long as appropriate training is provided.

- ✓ Inclusion of providers in the planning and development of surveys, reporting requirements, and data collection efforts of the state, prior to initiation. Costs of compliance should be assessed prior to implementation.