SCOPE:

State-Operated Intermediate Care Facilities
for the Mentally Retarded (ICF/MR) Directors

PURPOSE:

The purpose of this bulletin is to establish a statewide Peer Review Committee as authorized under 63 P.S. 425 to review health-related services provided by residential programs for individuals with developmental disabilities. This Committee will function to improve the quality of care and the efficiency of operations in state centers and MR Units.

BACKGROUND:

The Office of Mental Retardation operates and regulates residential programs for individuals with developmental disabilities. Health-related services are an integral component of many of these programs, in particular the state-operated ICF’s-MR. In order to ensure quality of health-related services in state centers and to improve the efficiency of operations, the Office is establishing a Statewide Peer Review Committee to monitor the performance of professional health care providers (as defined in the Peer Review Protection Act, Attachment A) caring for individuals served in these residential settings.

REFER COMMENTS AND QUESTIONS TO:

Michael Stauffer, Director, Bureau of Direct Program Operations, Office of Mental Retardation, Room 512, Health and Welfare Building, Harrisburg, Pennsylvania 17105
DISCUSSION:

This bulletin establishes the OMR Statewide Peer Review Committee. The Committee will be composed of licensed professional health care providers and OMR administrative personnel as designated by the Deputy Secretary for Mental Retardation. Legal counsel for the Committee will be designated by the Chief Counsel, DPW. Support staff will be assigned as needed by the Bureaus of Direct Program Operations and Community Programs.

The Committee will meet quarterly or more frequently as needed. For the quarterly meetings, the presence of 75% or more of voting Committee members constitutes a quorum. Committee proceedings will be documented in minutes prepared at the direction of the Committee Chairperson. The first order of business at each quarterly meeting will be action on a motion to accept or amend the minutes of the previous meeting.

The Committee will review activities, clinical records and other documentation including, but not limited to:

- Death summaries;
- Hospital admissions;
- Certain unusual incident reports;
- Professional credentials;
- Continuing education documents;
- Documentation of licensed personnel’s participation in interdisciplinary team process;
- CPR training records.

The Committee will perform statewide reviews evaluating quality of care issues that are germane to residential programs serving individuals with mental retardation. In addition, the Committee will perform targeted reviews evaluating the quality of care provided by particular practitioners or residential programs as the need arises. These reviews will be performed by Committee members using criteria established by the Committee. They will focus on the quality of the clinical care rendered and the efficiency and effectiveness of health care delivery within each residential program and throughout the system.

Once a review has been completed, it will be evaluated by the full Committee. Based on the report, the Committee will determine appropriate recommendations for action that may include, but are not limited to:

- Request for additional information;
- Recommendation that the Committee retain outside consultative assistance for investigation and analysis;
- Recommendation for administrative corrective action plan by the residential program;
- Recommendations for statewide administrative corrective action plan by the appropriate oversight bureau within OMR.
- Recommendation for consideration of disciplinary action, including referral to the appropriate licensing agency;
- Recommendation for practice under supervision;
- Recommendation for specific continuing education;
- Recommendation for no further action.

The Committee having arrived at a recommendation, the Chairperson will report it out to the Deputy Secretary for Mental Retardation or the Deputy's designee.

The reviews and deliberations of the Committee are confidential and privileged under the provisions of 63 P.S. 425. The findings of outside consultants retained by the Committee are confidential.
PROFESSIONS AND OCCUPATIONS

63 P.S. § 425.2

Title of Act:
An Act providing for the increased use of peer review groups by giving protection to individuals and groups who report to such peer review groups, 1974, July 30, P.L. 544, No. 193.

Notes of Decision:

Sections
425.1. Short title.
425.2. Definitions.
425.3. Immunity from liability.
425.4. Confidentiality of review organization's records.

Historical Note

As used in this act:

"Peer review" means the procedure for evaluation by professional health care providers of the quality and efficiency of services ordered or performed by other professional health care providers, including practice analysis, inpatient hospital and extended care facility utilization review, medical audit, ambulatory care review, claims review, and the compliance of a hospital, nursing home or convalescent home or other health care facility operated by a professional health care provider with the standards set by an association of health care providers and with applicable laws, rules and regulations.

"Professional health care provider" means individuals or organizations who are approved, licensed or otherwise regulated to practice or operate in the health care field under the laws of the Commonwealth, including, but not limited to, the following individuals or organizations:

1. A physician.
2. A dentist.
3. A pediatrician.
4. A chiropractor.
5. An optometrist.
6. A psychologist.
7. A pharmacist.
8. A registered or practical nurse.
10. An administrator of a hospital, a nursing or convalescent home, or other health care facility.
11. A corporation or other organization operating a hospital, a nursing or convalescent home or other health care facility.

"Professional society" includes medical, psychological, nursing, dental, optometrist-pharmacists, chiropractic and pediatric organizations having as members a majority of the eligible licensates in the area or health care facility or area served by the particular society.

Preceding Chapter 12A, Peer Review Protection, consisting of §§ 420.1 to 420.4, were enacted by Act 1971, July 30, P.L. 544, No. 193, §§ 1 to 4, effective immediately.
Pfessions and Occupations

63 P.S. § 425.2

Health services plan review committee, a dental review committee, a physicians'
advisor committee, a nursing advisory committee, any committees established pursuant
to the medical assistance program, and any committee established by one or
two State or local professional societies, to gather and review information relating
to the care and treatment of patients for the purposes of (i) evaluating and
improving the quality of health care rendered; (ii) reducing morbidity or mortality;
or (iii) establishing and enforcing guidelines designed to keep within reasonable
bonds the cost of health care. It shall also mean any hospital board, committee or
individual reviewing the professional qualifications or activities of its medical staff
or applicants for admission thereto. It shall also mean a committee of an association
of professional health care providers reviewing the operation of hospitals, nursing
homes, convalescent homes or other health care facilities.

1121, No. 262, § 1, imd. effective.

Notes of Decisions

1. In general
Pennsylvania Peer Review Protection Act seeks to foster the proper performance of
medical personnel and the staffs of health care institutions in the rendering of health
services. The act was enacted in 1978 and became effective in 1979. It provides
for the establishment of peer review committees to review the performance of
medical personnel and to make recommendations for improvement. The act also
prohibits the disclosure of information to third parties without the consent of
the medical personnel involved. The act applies to hospitals, nursing homes,
convalescent homes, and other health care facilities.

Pfessions and Occupations

63 P.S. § 425.4

Notes of Decisions

1. In general
Communications made by doctors to executive
decisions, president of medical staff and members

1121, No. 262, § 1, imd. effective.

Notes of Decisions

1. In general

Pfessions and Occupations

63 P.S. § 425.4

of board of directors of hospital about other
doctors not privileged under Peer Review Protection
1971.

1. In general

Confidentiality of records and organization's records

The proceedings and records of a review committee shall be held in confidence and
shall not be subject to discovery or introduced into evidence in any civil action
against a professional health care provider arising out of the matters which are
the subject of evaluation and review by such committee and no person who was in
attendance at a meeting of such committee shall be permitted or required to testify
in any such civil action as to any evidence or other matters produced or presented
or presented during the proceedings of such committee or as to any findings,
recommendations, evaluations, opinions or other actions of such committee or any
members thereof.

Provided, however, that information, documents or records otherwise available from
original sources are not to be construed as immune from discovery or use in any
such civil action merely because they were presented during proceedings of such
committee, nor should any person who testifies before such committee or who is a
member of such committee be prevented from testifying as to matters within his
knowledge, but the said witness cannot be asked about his testimony before such
committee or opinions formed by him as a result of said committee hearings.

1121, No. 262, § 1, imd. effective.

Notes of Decisions

1. In general

Records

1121, No. 262, § 1, imd. effective.

Notes of Decisions

1. In general

Medical malpractice plaintiff was not entitled to
discovery of peer review records which were not
reasonably associated with plaintiff's cause of
action, including complaints against defendant
doctor by other patients. Sanderson v. Bach, 26 D.C.

Incident reports routinely prepared by nurses
whereas an incident report occurs are not
privileged from discovery by the peer review

The Peer Review Protection Act does not shield
information concerning incidents of medical
malpractice, peer review committee, nor the reports
of such incidents to other patients at defendant
hospital during the time of plaintiff's hospitalization.

The privilege afforded by this section applies
only to matters which can reasonably be associated
with plaintiff's cause of action and to those
documents and evidence produced by the peer
review committee in response to the request

The privilege does not extend to the production of
medical malpractice plaintiffs from having access to his own medical records
or the reports of such incidents to other patients at defendant
hospital during the time of plaintiff's hospitalization.