SCOPE: Regional Mental Retardation Commissioners
Superintendents, State Mental Retardation Centers
Directors, Mental Retardation Units
Superintendents, State Mental Hospitals
Guardian Offices
Office of Client Rights

PURPOSE:
This bulletin revises instructions regarding responsibility for the
guardianship petitioning process governed by the Vecchione Consent Decree,
and establishes monitoring procedures for the initial petitioning process and
the periodic redetermination of patient/resident competence. New mental
health and mental retardation policies and procedures are designed to ensure
consistent actions and staff accountability for complying with regulations
resulting from the Vecchione Consent Decree on petitioning for adjudications
of incompetency.

Mental Retardation Bulletins 99-81-08, "Petitioning Process in
State Centers and State Mental Hospitals", issued on March 20, 1981, and
99-81-37, "Petitioning Process in State Centers and State Mental Hospitals",
issued on September 28, 1981, are obsolete.

BACKGROUND:
The Vecchione Consent Decree established patient/resident rights
for due process in determination of competency to manage financial resources.
The consent decree affirmed a facility's duty 1) to act in best interest of
the patient/resident in assessing financial competence and during that period
of time when legal proceedings are in process to obtain a legal decision
about financial competence; and 2) to provide the opportunity for periodic
reassessments of person's ability to manage personal financial resources.
Regulations resulting from the consent decree are complex and require collaboration and cooperation by employees of the department in various functions at each facility, in regional offices and in headquarters.

**ACTION REQUIRED:**

In order that all concerned can be alert to potential problems as well as have information about the work flow, the quantity of work, and the timetables for action, the following steps are required.

Superintendents/HR Unit Directors shall immediately assign responsibility to a staff person to manage and track activities related to the Vecchione petitioning process including initial and subsequent competency determinations, and to submit forms in accordance with the attached procedures. This person is referred to in this bulletin as the petitioning coordinator.

Within one week of receipt of this bulletin, the superintendents/unit directors shall submit the name of their petitioning coordinator to the appropriate Regional Attorney and to the Director, Bureau of Hospital Services (for the Office of Mental Health) or to the Director, Bureau of Program Management (for the Office of Mental Retardation). Any subsequent change in assignment of Vecchione coordinating responsibilities should be reported to these same persons within five days of the change in assignment. After start-up, approximately 10% to 15% of a full-time employee's time should be sufficient to manage the tasks outlined below. The assignment of these tasks will not merit a new classification or a salary increase. Through this process, the petitioning coordinator must keep the superintendent informed about any problems, delays, disputes or misunderstanding in the initial competency determination and redetermination processes.

**Superintendent's/Unit Director's Responsibilities**

1. **Competency Evaluations**
   a. Assure that all petitions for guardianship are completed within 30 days from the date when it is determined that patient/resident is in need of an appointed guardian.
   b. Assure that all social service, medical or psychology staff cooperate fully with the petitioning coordinator in obtaining competency evaluations within the specified time frames (i.e., 31st to 60th day following admission/readmission/transfer in).
   c. Assure that all social service, medical or psychology staff cooperate fully with the guardian officer and petitioning coordinator in completing the redeterminations of competency within specified time frames (i.e., every 180 days for state mental hospital patients, every 2 years for severely and profoundly mentally retarded residents, and every year for mildly and moderately retarded residents).
   d. Sign the report of competency examination, form SI-535, immediately upon receipt and return it to the petitioning coordinator.

2. **Petitions for Guardianship**
   a. Sign each petition promptly and return it to the coordinator.
b. Resolve problems as they arise.

3. Petition to Dismiss Guardianship

Sign the petition for dismissal of guardianship when a person is found to be competent and return it to the petitioning coordinator.

Petitioning Coordinator's Responsibilities

1. Administrative Accountability

a. Prepare with the help of all involved staff, a procedure manual describing the tasks and time frames for the facility's petitioning coordinator.

b. Submit the manual to the superintendent/center director for his or her approval.

c. Notify all staff who might become involved in the petition process or incompetency evaluations of the Departmental policies and the facility procedures.

d. Arrange inservice training as needed.

e. Implement a communication pathway to accomplish procedures and to provide feedback to staff.

2. Competency Evaluations

a. Maintain a log or record system regarding competency evaluations for each patient/resident at the time of admission, readmission, transfer or discharge.

b. Initiate and forward the (SI-532) "Review for Competency to Handle Property and Financial Affairs" and/or the (SI-533) "Report of Competency Examination" to the social service department on the 31st day after the patient's/resident's admission/readmission/transfer in.

c. Monitor the completion of the SI-532 and SI-533 to assure completion prior to the 61st day after admission/readmission/transfer in.

d. Obtain the superintendent's signature on the SI-533.

e. Maintain a file for retention of patient/resident competency assessments.

f. Forward a copy of the completed forms, SI-532 and SI-533 to the facility guardian office, institutional collections office and the ward to which the patient is assigned for filing in the patient's/resident's clinical record.

g. If a patient/resident is preliminarily determined to be incompetent to manage personal property and financial resources, obtain an opinion from the treatment team on potential for discharge within 90 days. If discharge is anticipated, take no further action.
h. If the treatment team advises the patient/resident will not likely be discharged within 90 days, initiate activities for money management training as required under OMH Bulletin 99-82-33 or OMH Bulletin 99-82-27, "Vecchione Competency Determinations Procedures and Alternatives". Contact the institutional guardian officer to determine if personal financial resources (other than SSI) are being held for the patient/resident or resources are available to the patient/resident. If the patient/resident has financial resources, proceed to the petitioning process.

i. Initiate redetermination activities in accordance with the following: every six months for state mental hospitals, every two years for severely and profoundly retarded residents, or every year for mildly or moderately retarded residents. These time frames are based upon the date of the court adjudication of incompetency.

3. Petitioning Process

a. Maintain a supply of blank petition forms.

b. Obtain all social, demographic and personal information required on page 1 of the petition from the social service department.

c. Request the institutional guardian officer to complete page 3 (financial page) and Exhibit B of the petition.

d. Assure that the petition is complete and typed when information is obtained.

e. Obtain the properly notarized psychiatrist's/psychologist's signature on Exhibit A of the petition.

f. Obtain the properly notarized superintendent's signature on the petition.

g. Include the original SI-533 with the petition.

h. Forward to the appropriate DPW regional counsel the completed petition and its exhibits. Petitions are filed in the county of patient/resident residence. If uncertainty arises regarding a person's county of residence, consult with the appropriate regional counsel.

i. Follow any further instructions received from the appropriate regional legal counsel.

j. Retain records and suspense file of pending petition.

4. Monitoring the Petition Process

On a monthly basis, compile the "Guardianship Petition Monitoring Report", (see attached blank report form and accompanying definitions - Appendix A-1 and A-2) in accordance with the procedures in Appendix A-3.
5. Reporting Requirements

a. Every month each facility's petitioning coordinator shall submit the "Guardianship Petitioning Monitoring Report" to the superintendent/unit director.

b. By the fifth working day of each month, the superintendent/unit director shall forward a copy of the petitioning coordinator's monthly report to the Director, Bureau of Hospital Services (for OMH) or to the Director, Bureau of Program Management (for OMR). In addition, copies of the report should be sent to the appropriate regional legal counsel (see attached listing, Appendix D). By the 15th working day of each month, the Program Offices will transmit copies of the reports to the Division of Institutional Collections and to the Office of Client Rights.

c. Through review of the monthly report, Regional Legal Counsel shall monitor the petitioning and redetermination process to assure compliance with the Vecchione Consent Decree. Through review of the monthly petitioning monitor report, the Division of Institutional Collections shall monitor the petitioning process to identify and backlog which may delay timely collections.

d. The Offices of Mental Health and Mental Retardation shall review the monthly guardianship petition monitoring report to make certain that there is timely processing of petitions, and to determine if there are existing problem areas requiring immediate program office intervention. Areas which indicate problems in either the Regional Legal Counsel Offices or in the court system shall be referred to the DPW Office of Legal Counsel.

e. The program offices shall also review the monthly reports on a bi-annual basis to determine the necessity of continuing the monitoring process, to assure that facilities, regional legal counsel any the Bureau of Institutional Collections are carrying out their assigned responsibilities, and to identify and correct problems requiring policy revisions/clarification in the management of the Vecchione Consent Decree.

Social Service Department Responsibilities

1. Competency Evaluations

a. Upon receipt of the SI-532 or SI-533, schedule the patient's/resident's competency assessment by the psychiatrist/psychologist.

b. Notify the patient/resident of the scheduled assessment date, assist the patient/resident in understanding to the extent possible the purpose of the assessment, and provide the patient/resident with the original SI-532, making certain that the date, time and location for the assessment are completed on the form.

c. Monitor the initial competency assessment until it is completed by the psychiatrist/psychologist. Return the SI-533 to the petitioning coordinator.
d. If discharge is anticipated within 150 days after admission/readmis-
tion/transfer in, inform the petitioning monitor and the Institu-
tional Collection Officer in writing that actions to obtain an
adjudication of incompetence should not be pursued.

e. Provide names of relatives and/or interested parties who may accept
an assignment as representative payee (or guardian) for prelimi-
narily determined incompetent patient/resident to appropriate benefit
issuing agencies.

2. Petitions for Guardianship

   a. Provide the petitioning coordinator with all social, demographic
      and personal information necessary to complete a petition for the
      appointment of a legal guardian.

   b. Insure that all information required is accurate and provided when
      requested.

Institutional Guardian Officer Responsibilities

1. Petitioning Process - complete the financial page of the petition and
   sign the consent for appointment of the legal guardian.

2. Redetermination of Competency/Incompetency

   a. Monitor competency redetermination for the adjudicated incompetent
      patient/resident every six months for state mental hospital
      patients, every two years for severely and profoundly retarded
      residents, or every year for mildly and moderate retarded residents.

   b. Maintain a file of all patients/residents for whom the guardian
      officer is legal guardian or SSI representative payee in order to
      anticipate and monitor timely redeterminations.

   c. If the patient/resident for whom the guardian officer is legal
      guardian becomes competent, complete financial and/or other infor-
      mation on a petition for discharge as directed by regional legal
      counsel.

   d. If the guardian officer is the representative payee for an SSI
      beneficiary who becomes competent, the guardian officer shall
      notify the benefit issuing agency that he/she wishes to be relieved
      of representative payee responsibility.

3. Cooperation with Benefit Issuing Agencies

   Assist the benefit issuing agency by providing names of relatives and/
   or interested parties who may accept guardianship or representative
   payee status for the incompetent patient/resident.

Report Forms

Until such time as forms are printed and distributed, each facility
may xerox the attached blank form as needed. When the forms are printed, a
supply of 100 will be distributed one time only. These forms will not be
available through the warehouse or from the Program Offices.
Orientation for Petitioning Coordinators

The Department plans to conduct an initial orientation program for the petitioning coordinators in the first week of October. A detailed announcement and agenda will follow this bulletin. Suggestions for the agenda should be forwarded to Ms. Barbara Gordon, Director, Research Section, Office of Mental Health, telephone (717) 787-4114 or network 8-447-4114. The orientation program will include resource staff to answer questions raised by the petitioning coordinators.
Procedures for Completing the Guardianship Petition Monitoring Report

A. Each month a report is to be completed by the facility coordinator in accord with the provisions of this bulletin.

B. The monthly reports shall be submitted to the superintendent/unit director by the coordinator by the second working day of the next succeeding month.

C. For the initial report (see sample initial report - Appendix B), complete the following steps.
   1. Enter the name of the facility and the date in the right corner.
   2. Title the report "Initial Report" in the upper left corner.
   3. Enter the names of the months starting with October in the boxes at the top of the page.
   4. The initial report is to include data as requested for all patients affected as of and including October 31, 1982. Data regarding petition hearings, court orders, dispositions, etc., identified on the left-hand column shall be counted for all current cases in order to create the facility's baseline prior to November 1, 1982.
   5. The total number of patients/residents for whom the guardian officer is serving as representative payee and no hearing has taken place shall be entered on line 2.
   6. Line 3 is not used for the initial report.
   7. Lines 4 through 12 require a breakdown of the total number of patients identified in line 2. For each line insert the number of patients who fit the category described. Insert the required data in the sub-column entitled "Current" for the month of October.

D. Subsequent Monthly Reports (see sample subsequent reports - Appendices C-1, C-2 and C-3).

1. Each subsequent monthly report will be completed in three stages. Before proceeding, enter the months to be reported at the top of each column. Note that the first five (5) reports will include data for prior months. At the end of a six-month reporting cycle, new monthly headings will need to be typed into the spaces on line 1.
   a. First, record that data previously transmitted as current on the last month's report to a new form under the same month's column, but in the sub-column entitled "previous".
   b. Second, record in the same month's sub-column entitled "current" any changes of category for the data reported in the previous month's report which has occurred since the last submission of the data. As a result, in a subsequent report, the data should be recorded under the previous month's columns to reflect how it was recorded at last submission in the sub-column entitled "previous" and how the status of activities changed during that month in the sub-column entitled "current".
DEFINITIONS

1. Representative Payeeships (Guardian Officer)
   - The total number of clients for whom the Guardian Officer serves as representative payee and adjudication proceedings have not taken place.

2. New Payee Appointments (Guardian Officer)
   - The number of new representative payeeships received by the Guardian Officer during the particular reporting month.

3. Petitions in Process at the Facility
   - The number of petitions in process at any of the various stages of completion within the facility.

4. Petitions sent to Legal and remain in Legal
   - The number of petitions in the legal office which has not been acted upon by the legal staff.

5. Petitions filed by Legal with the Orphans Court
   - The number of petitions that has been filed by legal with the appropriate County orphans court.

6. Hearings Scheduled
   - The number of petitions which has been scheduled to be heard with a specific date.

7. Final Disposition
   - The final action on any petitions which was identified in categories (1) "Representative Payeeship (Guardian Officer)" or (2) "New Payee Appointments (Guardian Officer)".

8. Court Orders Issued (and Received or Anticipated)
   - The number of signed orders received or anticipated receiving on legal action taken for those clients identified in definitions (1) and (2).

9. Disposition Deferred
   - The number of petitions where the hearing was conducted, but for some reason the issuance of the final order is pending.

10. Petitions Withdrawn Due To
    - The number of petitions withdrawn by category from seeking legal guardianship.
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### Guardianship Petition Monitoring Report

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APPENDIX D

REGIONAL COUNSEL

CENTRAL REGION

JULES S. HENSHALL, ESQUIRE
RM. 323, HEALTH & WELFARE BLDG.
BOX 2675
HARRISBURG, PA 17105

SOUTHEAST REGION

MARY ALEXINE REILLY, ESQUIRE
RM. 305 PHILA. STATE OFFICE BLDG.
1400 SPRING GARDEN STREET
PHILADELPHIA, PA 19130

NORTHEAST REGION

THOMAS BEAGUSIAK, ESQUIRE
ALLENTOWN STATE HOSPITAL
ALLENTOWN, PA 18103

WESTERN REGION

EDWARD F. CAREY, ESQUIRE
RM. 1403 PITTSBURGH STATE OFFICE BLDG.
300 LIBERTY AVENUE
PITTSBURGH, PA 15222.
For all categories listed under "Final Disposition", place in the "current" sub-column the running total of petitions disposed of according to the category reflecting the court's action.

c. Third, record the number of new payeeships received in the guardian office during the current month under the current month's column in the sub-column entitled "current". This figure must remain constant in all subsequent reports. The other categories will reflect the various stages of movement in the petitioning process for the new payeeships having been established in the months.

IE: The summation of patients/residents listed in the "current" column must always equate to the number established in the Representative Payeeships or New Payee Appointments column.

Submit monthly reports to the Superintendent/Unit Director by the second working day of the month following the reported month.
## Guardianship Petition Monitoring Report

### Appendix C-2

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<td>PETITIONS WITHDRAWN DUE TO:</td>
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<td>- Client Death</td>
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<tr>
<td>- Outside Rep., Payee Appointed</td>
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# Guardianship Petition Monitoring Report

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<tr>
<th>Initial Report</th>
<th>October</th>
<th>November</th>
<th>December</th>
<th>January</th>
<th>February</th>
<th>March</th>
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<tr>
<td>Representative Payeeships (Guardian Office)</td>
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<td>New Payee Appointments (Guardian Office)</td>
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<td>- Outside Frp. Payee Appointment</td>
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