SCOPE: State Center Directors
        State Mental Retardation Unit Directors

PURPOSE:

The purpose of this Bulletin is to transmit the agreement between the Office of Mental Retardation and Pennsylvania Protection and Advocacy, Inc. (PP&A).

BACKGROUND:

The attached agreement was developed because while PP&A and the Office of Mental Retardation share the same long-term goals for people with mental retardation, each entity has different roles and responsibilities to fulfill to achieve those goals.

APPLICATION:

State Center and Mental Retardation Unit Directors should ensure that all State Center and State Mental Retardation Unit staff and Center Boards of Trustees are aware of and recognize the importance of living up to the agreement.
UNDERSTANDING OF CONDITIONS OF ACCESS BY PENNSYLVANIA PROTECTION AND ADVOCACY AND ITS AUTHORIZED REPRESENTATIVES TO STATE-OPERATED MENTAL RETARDATION FACILITIES AND RECORDS:

Access to the facility -

Pennsylvania Protection and Advocacy, Inc. (PP&A) will be permitted access to the facility at all reasonable times. Visits during business hours are always reasonable; visits at other times are reasonable if there is cause for such visits. These visits should minimize disruption to the activities or scheduled services of the individuals who reside at the facility and not violate their privacy rights unless a life-threatening emergency situation exists. If by mutual agreement access is delayed, the facility must provide a reasonable alternative time and date for the visit. In all instances the driving force behind such a decision must be what is in the best interest of the individual who resides at the facility, not what would be most convenient for staff of the facility or the PP&A representative. This in no way restricts PP&A’s authority to make unannounced visit.

PP&A representatives will customarily announce themselves to the person in charge of the facility before commencing any visit or inspection. If facility policy so dictates for visitors generally, PP&A representatives may be required to carry a visitor pass.

Access to facility staff -

Facility staff are free to speak with PP&A representatives. Staff are not obligated to speak with PP&A, however. Any private conversation requiring staff to leave program areas must allow time for the staff person’s supervisor to arrange for coverage. Facility personnel records cannot be provided to PP&A representatives without the staff person’s consent.

Access to people who reside at the facility -

The individuals who reside at facilities are free to speak with representatives of PP&A privately. Activities such as eating, sleeping and habilitative services should be interrupted as little as possible and only with the approval of the person. Individuals who reside at facilities may refuse to meet with PP&A.
Access to records

PP&A representatives have access to an individual's records with the written consent of the individual, their guardian or legal representative. However, if a report is made to PP&A or if there is probable cause to believe that abuse or neglect has occurred, PP&A may access the records of the individual even if the individual is unable to authorize access and does not have a guardian or legal representative.

For the purposes of this agreement facility records which PP&A representative may review will include:

- Reports prepared or received by any staff of the facility such as individual service plans and discharge planning documents;

- Reports prepared by the facility or any agency responsible for investigating incidents of abuse, neglect and injury occurring while the individual was a resident of the facility and the steps taken to investigate the incident;

- Management documents such as safety or security reports, infection control reports, and committee meeting minutes.

PP&A representatives can only request records for specific individuals with their consent as discussed above. They may not request all the records for an entire unit without the consent of each individual. However, an exception to this rule is that incident reports (MR Form 34 - Incident/Occurrence Report) shall be available to PP&A representatives upon request. Incident reports containing names of individual staff and residents will be redacted so as to block out those names and their identifying numbers will be substituted.

PP&A representatives may take notes and request copies of documents in the file (in accordance with their consent form); however, facilities will charge 50 cents per page. PP&A representatives may use their own portable copier.

Following the visit, PP&A representatives will advise the facility of its findings at an exit interview if requested by the facility director or the PP&A representative. This will provide the facility staff an opportunity to discuss the findings and, if necessary, establish a reasonable timeframe for addressing any issues. By mutual agreement, PP&A would provide a written summary of its findings and the agreed upon next steps within ten working days.

(Signature and Date)

STEVEN M. KIDKILMAN
Deputy Secretary
for Mental Retardation

(Signature and Date)

KEVIN T. CASEY
Executive Director
Pennsylvania Protection & Advocacy, Inc.