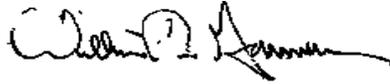


	<p align="center">MENTAL RETARDATION BULLETIN COMMONWEALTH OF PENNSYLVANIA * DEPARTMENT OF PUBLIC WELFARE</p>
<p>BY</p> <p align="center"> Gerald Radke Deputy Secretary for Mental Health and Substance Abuse Services</p>	<p>BY</p> <p align="center"> Nancy R. Thaler Deputy Secretary for Mental Retardation</p>
<p>BY</p> <p align="center"> William A. Gannon Deputy Secretary for Social Programs</p>	<p>BY</p> <p align="center"> Wayne Stevenson Deputy Secretary for Children, Youth, and Families</p>
<p>NUMBER:</p>	<p>00-03-02</p>
<p>ISSUE DATE:</p>	<p>February 19, 2003</p>
<p>EFFECTIVE DATE:</p>	<p>Immediately</p>

SCOPE:

County MH/MR Administrators
 Community Home Directors
 Non-State Operated Intermediate Care Facilities for the Mentally Retarded (ICF/MR) Directors
 State Operated Intermediate Care Facilities for the Mentally Retarded (ICF/MR) Directors
 Base Service Unit Directors
 Intermediate Care Facilities for Persons with Other Related Conditions (ICF/ORC) Directors
 Family Living Home Directors
 Adult Training Facility Directors
 Vocational Facility Directors
 County Children and Youth Administrators
 Private Children and Youth Agency Directors
 Personal Care Homes
 Attendant Care Directors
 Community Service Program for Persons with Physical Disabilities Providers
 Community Residential Rehabilitation Services (CRRS) Directors
 Psychiatric Outpatient Clinic Directors
 Partial Hospitalization Program Directors
 Psychiatric Hospital Directors
 Long Term Structured Residence Program Directors
 Residential Treatment Facility Program Directors
 Family Based Mental Health Service Directors
 Crisis Intervention Services Directors
 Intensive Case Management/Resource Coordinator Directors

PURPOSE:

The purpose of this bulletin is to provide the relevant statutes related to Pennsylvania Protection and Advocacy, Inc. (PP&A) staff, subcontractors and designated agents in order for them to have access to individuals with disabilities, the facilities in which they receive services and their records in accordance with its federal statutory mandate to protect and advocate for the rights of persons with disabilities.

STATUTES:

PP&A is an independent, private, non-profit organization designated by the Commonwealth of Pennsylvania to protect and advocate for persons with disabilities. In carrying out its mission, PP&A operates under the authority of three federal statutes:

- The Developmental Disabilities Act ("DD Act")

The DD Act has been in effect since 1975. The DD Act covers PP&A's responsibilities with regard to persons with developmental disabilities. 42 U.S.C. 15041-15043 (relevant excerpts in Appendix A).

- The Protection and Advocacy for Individuals with Mental Illness Act ("PAIMI")

First enacted in 1986, PAIMI sets forth PP&A's responsibilities for persons who have mental illness. 42 U.S.C. 10801 et seq (relevant excerpts in Appendix B).

- The Protection and Advocacy of Individual Rights Act ("PAIR")

PAIR extends the responsibility of PP&A to all persons with disabilities who are not otherwise covered by the DD and PAIMI Acts (One example: persons with physical disabilities that occurred after age 21). 29 U.S.C. 794e. (Appendix C)

These protection and advocacy laws give PP&A authority to investigate allegations of abuse and neglect. These statutes and their implementing regulations set forth the extent of PP&A's right to access individuals with disabilities, their records and facilities in which they receive treatment. This is consistent with the Department's mission to protect and serve Pennsylvania's most vulnerable citizens. The Department values the on-going monitoring and oversight of all services and programs provided to persons under its supervision.

These federal laws supersede all inconsistent state laws including the Peer Review Protection Act and the Child Protective Services Law. Agencies' are advised to consult with their legal counsel regarding the agency compliance with statutory requirements.

OBSOLETE BULLETINS:

Mental Retardation Bulletin titled, "Site Visits and Access to Records by Pennsylvania Protection and Advocacy, Inc.," issued August 22, 1994, numbered 00-94-19, is rescinded.

Mental Health Bulletin titled, "Access to Mental Hospitals and Restoration Center by Employees of the Pennsylvania Protection and Advocacy, and its Legal Counsel," issued May 15, 1991, numbered SMH-91-02, is rescinded.

[View Appendix A](#)

[View Appendix B](#)

[View Appendix C](#)

COMMENTS AND QUESTIONS REGARDING THIS BULLETIN SHOULD BE DIRECTED TO: Regional Program Managers for Mental Retardation; Headquarters Program Managers, Office of Social Programs; Area Directors for Mental Health; and Regional Children & Youth Directors