
By: **Delegates Hubbard, Conroy, Costa, Kullen, and Taylor**

Introduced and read first time: January 26, 2005

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Mortality and Quality Review Committee - Serious Incidents**

3 FOR the purpose of renaming the Mortality Review Committee to be the Mortality
4 and Quality Review Committee; requiring the Committee to make certain
5 findings and recommendations on the prevention of certain serious incidents
6 and certain systemic quality assurance needs; requiring the Department to
7 adopt certain regulations; allowing the Committee to authorize a certain
8 follow-up review; requiring the Office of Health Care Quality to develop a
9 certain analysis of certain data on certain serious incidents; requiring that a
10 certain analysis be provided to the Committee at certain intervals; requiring the
11 Committee to review a certain analysis and make certain findings and
12 recommendations; requiring the distribution of a certain report to certain
13 facilities or programs; requiring that a certain report include a certain summary
14 of certain analyses and certain findings and recommendations; defining certain
15 terms; and generally relating to the Mortality and Quality Review Committee
16 and serious incidents.

17 BY repealing and reenacting, with amendments,
18 Article - Health - General
19 Section 5-801 through 5-810 to be under the amended subtitle "Subtitle 8.
20 Mortality and Quality Review Committee"
21 Annotated Code of Maryland
22 (2000 Replacement Volume and 2004 Supplement)

23 BY adding to
24 Article - Health - General
25 Section 5-806
26 Annotated Code of Maryland
27 (2000 Replacement Volume and 2004 Supplement)

28 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
29 MARYLAND, That the Laws of Maryland read as follows:

1 **Article - Health - General**

2 Subtitle 8. Mortality AND QUALITY Review Committee.

3 5-801.

4 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
5 INDICATED.6 (B) (1) "ABUSE" MEANS THE MISTREATMENT OR MISHANDLING OF AN
7 INDIVIDUAL THAT RESULTS IN THE INJURY OR IMMINENT INJURY OF THE
8 INDIVIDUAL REGARDLESS OF WHETHER THE RESULTING INJURY IS APPARENT.9 (2) "ABUSE" INCLUDES THE FAILURE TO INTERCEDE ON BEHALF OF AN
10 INDIVIDUAL WHO IS ABUSED.11 (C) [In this subtitle,] "Committee" means the Mortality AND QUALITY Review
12 Committee.13 (D) "INJURY" MEANS ANY PHYSICAL OR EMOTIONAL HARM OR DAMAGE TO AN
14 INDIVIDUAL'S HEALTH, SAFETY, OR WELL-BEING THAT IS CAUSED BY THE ACT OF
15 ANOTHER INDIVIDUAL.

16 (E) "MEDICATION ERROR" MEANS:

17 (1) THE ADMINISTRATION OF MEDICATION:

18 (I) IN AN INCORRECT DOSAGE;

19 (II) IN AN INCORRECT FORM;

20 (III) BY AN INCORRECT ROUTE;

21 (IV) THAT HAS NOT BEEN PRESCRIBED OR ORDERED FOR THE
22 INDIVIDUAL IT IS ADMINISTERED TO; OR23 (2) THE FAILURE TO ADMINISTER A PRESCRIBED MEDICATION FOR ONE
24 OR MORE DOSAGE PERIODS.25 (F) (1) "NEGLECT" MEANS THE FAILURE TO PROVIDE PROPER CARE AND
26 ATTENTION TO AN INDIVIDUAL THAT RESULTS IN SIGNIFICANT INJURY OR
27 IMMINENT INJURY TO THE INDIVIDUAL.28 (2) "NEGLECT" INCLUDES FAILING TO ADEQUATELY PROVIDE AN
29 INDIVIDUAL WITH:

30 (I) FOOD;

31 (II) CLOTHING;

32 (III) MEDICAL TREATMENT;

- 1 (IV) SUPERVISION;
- 2 (V) SHELTER;
- 3 (VI) A SAFE ENVIRONMENT; OR
- 4 (VII) OTHER NECESSITIES.

5 (G) "SERIOUS INCIDENT" MEANS THE ABUSE OF, NEGLECT OF, INJURY TO, OR
6 ADMINISTRATION OF A MEDICATION ERROR TO AN INDIVIDUAL.

7 5-802.

8 (a) There is a Mortality AND QUALITY Review Committee established within
9 the Department.

10 (b) The purpose of the Committee is to prevent avoidable deaths AND SERIOUS
11 INCIDENTS and to improve the quality of care provided to persons with developmental
12 disabilities.

13 5-803.

14 (A) The Committee shall:

15 (1) Evaluate causes or factors contributing to deaths OR SERIOUS
16 INCIDENTS in facilities or programs operated or licensed by the Mental Hygiene
17 Administration and the Developmental Disabilities Administration or operating by
18 waiver under § 7-903(b) of this article;

19 (2) Identify patterns and systemic problems and ensure consistency in
20 the review process; and

21 (3) Make FINDINGS AND recommendations to the Secretary AND THE
22 DEPARTMENT OF DISABILITIES [to prevent] ON:

23 (I) THE PREVENTION OF avoidable deaths AND SERIOUS
24 INCIDENTS;

25 (II) SYSTEMIC QUALITY ASSURANCE NEEDS; and

26 (III) [improve] THE IMPROVEMENT OF quality of care.

27 (B) THE DEPARTMENT SHALL ADOPT REGULATIONS REQUIRING THE REPORT
28 OF A SERIOUS INCIDENT TO THE OFFICE OF HEALTH CARE QUALITY AND THE
29 APPROPRIATE DEVELOPMENTAL DISABILITY ADMINISTRATION REGIONAL OFFICE.

30 5-804.

31 (a) The Committee shall consist of [18] members appointed by the Secretary,
32 including the following:

- 1 (1) A licensed physician who is board certified in an appropriate
2 specialty;
- 3 (2) A psychopharmacologist;
- 4 (3) A licensed physician on staff with the Department;
- 5 (4) Two specialists, one in the field of developmental disabilities and one
6 in the field of mental health;
- 7 (5) Two licensed providers of community services, one for persons with
8 developmental disabilities and one for persons with mental illnesses;
- 9 (6) Two consumers, one with a developmental disability and one with a
10 mental illness;
- 11 (7) Two family members, one representing a consumer with a
12 developmental disability and one representing a consumer with a mental illness;
- 13 (8) The Deputy Secretary of Public Health or the Deputy Secretary's
14 designee;
- 15 (9) The Director of the Office of Health Care Quality;
- 16 (10) A licensed physician representative from the Medical Examiner's
17 Office;
- 18 (11) A licensed nurse who works with persons with developmental
19 disabilities in a program operated by a State licensed provider in the community;
- 20 (12) A member of an advocacy group for persons with disabilities; [and]
- 21 (13) Two members of advocacy groups, one for persons with
22 developmental disabilities and one for persons with mental illnesses; AND
- 23 (14) OTHER INDIVIDUALS NECESSARY TO CARRY OUT § 5-806 OF THIS
24 SUBTITLE, DETERMINED BY THE COMMITTEE.
- 25 (b) (1) The term of each member appointed under subsection (a)(1), (2), (4),
26 (5), (6), and (10) of this section is 3 years.
- 27 (2) A member who is appointed after a term has begun serves only for
28 the rest of the term and until a successor is appointed.
- 29 (3) A member may not be appointed for more than two consecutive full
30 terms.
- 31 (4) The terms of the members are as follows:
- 32 (i) One-third of the members shall be appointed for terms of 3
33 years commencing October 1, 2000;

1 (ii) One-third of the members shall be appointed for terms of 2
2 years commencing October 1, 2000; and

3 (iii) One-third of the members shall be appointed for terms of 1 year
4 commencing October 1, 2000.

5 (5) At the end of a term, a member continues to serve until a successor is
6 appointed.

7 (c) The Secretary may remove any member of the Committee for good cause.

8 (d) A member of the Committee:

9 (1) May not receive compensation for service on the Committee; but

10 (2) Is entitled to reimbursement for expenses under the Standard State
11 Travel Regulations, as provided in the State budget.

12 (e) The Committee shall be staffed by the Department.

13 (f) (1) An employee of the Developmental Disabilities Administration or the
14 Mental Hygiene Administration may not be a member of the Committee or any
15 subcommittee of the Committee.

16 (2) The Director of the Office of Health Care Quality may not serve on a
17 subcommittee of the Committee or vote on the disposition of an individual mortality
18 review that was previously reviewed by the Office of Health Care Quality.

19 (g) The Secretary shall select a chairperson from among the members of the
20 Committee.

21 (h) A quorum of the Committee shall be a majority of the appointed
22 membership of the Committee.

23 (i) The Committee shall meet not less than three times a year.

24 5-805.

25 (a) (1) Except as provided in paragraph (3) of this subsection, the Office of
26 Health Care Quality shall review each death of an individual with developmental
27 disabilities or with a mental illness who, at the time of death, resided in or was
28 receiving services from any program or facility licensed or operated by the
29 Developmental Disabilities Administration or operating by waiver under § 7-903(b) of
30 this article, or any program approved, licensed, or operated by the Mental Hygiene
31 Administration under § 10-406, § 10-901, or § 10-902 of this article.

32 (2) The Office of Health Care Quality may not review the care or services
33 provided in an individual's private home, except to the extent needed to investigate a
34 licensed provider that offered services at that individual's home.

1 (3) Unless a member of the Committee requests a review, the Office of
2 Health Care Quality may choose not to review a death if the circumstances, based on
3 reasonable judgment, are readily explained and require no further investigation.

4 (b) Within 14 days of the completion of each investigation, the Office of Health
5 Care Quality shall submit to the Committee its final report for each death.

6 (c) The Committee shall:

7 (1) Review each death report provided by the Office of Health Care
8 Quality; or

9 (2) Appoint a subcommittee of at least four members, one of whom shall
10 be a licensed physician or nurse, to review death reports and report and make
11 recommendations to the full Committee.

12 (d) (1) On review of the death report, if the Committee or its subcommittee
13 determines that further investigation is warranted, the Committee or subcommittee
14 may request:

15 (I) [additional] ADDITIONAL information, including consumer
16 records, medical records, autopsy reports, and any deficiency statements and plans of
17 correction; OR

18 (II) WITHIN 6 MONTHS OF THE COMMITTEE REVIEW, AN ON-SITE
19 FOLLOW-UP REVIEW BY THE OFFICE OF HEALTH CARE QUALITY TO ENSURE THE
20 SAFETY AND HEALTH OF OTHER INDIVIDUALS IN A FACILITY OR PROGRAM
21 OPERATED OR LICENSED BY THE MENTAL HYGIENE ADMINISTRATION OR THE
22 DEVELOPMENTAL DISABILITIES ADMINISTRATION OR OPERATING BY WAIVER
23 UNDER § 7-903(B) OF THIS ARTICLE.

24 (2) The Committee or subcommittee may choose to prepare questions for
25 the provider, State residential center director, or other relevant person or may request
26 the attendance of the provider, director, or other relevant person at a Committee or
27 subcommittee meeting.

28 (3) Except as provided in paragraph (2) of this subsection, Committee
29 members may not communicate directly with the provider, a State residential center
30 director, a State psychiatric superintendent, or a family member or guardian of the
31 individual who is the subject of a death report.

32 5-806.

33 (A) THE OFFICE OF HEALTH CARE QUALITY SHALL DEVELOP AN ANALYSIS OF
34 THE AGGREGATE DATA ON TRENDS AND PATTERNS OF SERIOUS INCIDENTS
35 VERIFIED BY THE DEPARTMENT AND OTHER COMPLAINTS DISCLOSED BY A FACILITY
36 OR PROGRAM OPERATED OR LICENSED BY THE MENTAL HYGIENE ADMINISTRATION
37 OR THE DEVELOPMENTAL DISABILITIES ADMINISTRATION OR OPERATING BY
38 WAIVER UNDER § 7-903(B) OF THIS ARTICLE.

1 (B) THE OFFICE OF HEALTH CARE QUALITY SHALL SUBMIT AN ANALYSIS TO
2 THE COMMITTEE ONCE EVERY 6 MONTHS.

3 (C) THE COMMITTEE SHALL REVIEW EACH ANALYSIS PROVIDED BY THE
4 OFFICE OF HEALTH CARE QUALITY AND MAKE FINDINGS AND RECOMMENDATIONS
5 UNDER § 5-803(A)(3) OF THIS SUBTITLE.

6 [5-806.] 5-807.

7 Upon request of the chairman of the Committee or subcommittee, and as
8 necessary to carry out the purpose of the Committee, the following shall immediately
9 provide the Committee or subcommittee with access to information and records
10 regarding an individual whose death is being reviewed:

11 (1) A provider of medical care, including dental and mental health care;

12 (2) A State or local government agency; and

13 (3) A provider of residential or other services.

14 [5-807.] 5-808.

15 A person shall have the immunity from liability under § 5-393 of the Courts
16 Article for any action as a member of the Committee or for giving information to,
17 participating in, or contributing to the function of the Committee or subcommittee.

18 [5-808.] 5-809.

19 (a) (1) At least once in a calendar year, the Committee shall prepare a report
20 for:

21 (I) [public] PUBLIC distribution; AND

22 (II) DISTRIBUTION TO A FACILITY OR PROGRAM OPERATED OR
23 LICENSED BY THE MENTAL HYGIENE ADMINISTRATION OR THE DEVELOPMENTAL
24 DISABILITIES ADMINISTRATION OR OPERATING BY WAIVER UNDER § 7-903(B) OF THIS
25 ARTICLE.

26 (2) The report shall include:

27 (I) [aggregate] AGGREGATE information that sets forth the
28 numbers of deaths reviewed, the ages of the deceased, AND THE causes and
29 circumstances of death[.];

30 (II) A SUMMARY OF THE ANALYSES PROVIDED TO THE COMMITTEE
31 UNDER § 5-806 OF THIS SUBTITLE;

32 (III) [a] A summary of the Committee's activities[.]; and

33 (IV) [summary] THE findings AND RECOMMENDATIONS MADE
34 UNDER THIS SUBTITLE.

1 (3) Summary findings shall include patterns and trends, goals,
2 problems, concerns, final recommendations, and preventative measures.

3 (4) Specific individuals and entities may not be identified in any public
4 report.

5 (b) (1) In addition to the public report issued under subsection (a) of this
6 section, the Committee or its subcommittee may at any time issue preliminary
7 findings or make preliminary recommendations to the Secretary or to the Director of
8 the Office of Health Care Quality.

9 (2) Preliminary findings or recommendations shall be confidential and
10 not discoverable or admissible under § 1-401 of the Health Occupations Article.

11 [5-809.] 5-810.

12 (a) The Committee shall maintain records of its deliberations including any
13 recommendations.

14 (b) (1) Except for the public report issued under § 5-808(a) of this subtitle,
15 any records of deliberations, findings, or files of the Committee shall be confidential
16 and are not discoverable under § 1-401 of the Health Occupations Article.

17 (2) This subsection does not prohibit the discovery of material, records,
18 documents, or other information that was not prepared by the Committee or its
19 subcommittee and was obtained independently of the Committee or subcommittee.

20 (c) (1) Members of the Committee or a subcommittee of the Committee,
21 persons attending a Committee or subcommittee meeting, and persons who present
22 information to the Committee or subcommittee may not be questioned in any civil or
23 criminal proceeding regarding information presented in or opinions formed as a result
24 of a meeting.

25 (2) This subsection does not prohibit a person from testifying to
26 information obtained independently of the Committee or subcommittee or that is
27 public information.

28 (d) (1) Except as necessary to carry out the Committee's purpose and duties,
29 members of the Committee or subcommittee and persons attending a Committee or
30 subcommittee meeting may not disclose:

31 (i) What transpired at a meeting that is not public under this
32 subtitle; or

33 (ii) Any information that is prohibited for disclosure by this section.

34 (2) This subsection does not prohibit the discovery of material, records,
35 documents, or other information that was not prepared by the Committee or its
36 subcommittee and was obtained independently of the Committee or subcommittee.

1 [5-810.] 5-811.

2 Meetings of the Committee and subcommittees shall be closed to the public and
3 not subject to Title 10, Subtitle 5 of the State Government Article.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 July 1, 2005.