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By: **Senators Teitelbaum, Della, Grosfeld, Kelley, and Middleton**

Introduced and read first time: February 4, 2005

Assigned to: Education, Health, and Environmental Affairs

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

18 BY repealing and reenacting, with amendments,  
19 Article - Health - General  
20 Section 5-801 through 5-810 to be under the amended subtitle "Subtitle 8.  
21 Mortality and Quality Review Committee"  
22 Annotated Code of Maryland  
23 (2000 Replacement Volume and 2004 Supplement)

24 BY adding to  
25 Article - Health - General  
26 Section 5-806  
27 Annotated Code of Maryland  
28 (2000 Replacement Volume and 2004 Supplement)

29 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
30 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, "Committee" means the Mortality AND QUALITY Review  
5 Committee.6 (B) THE DEVELOPMENTAL DISABILITIES ADMINISTRATION SHALL ADOPT  
7 REGULATIONS TO DEFINE "SERIOUS INCIDENT" FOR ABUSE, NEGLECT, SERIOUS  
8 INJURY, AND MEDICATION ERRORS THAT THREATEN THE HEALTH, SAFETY, AND  
9 WELL-BEING OF AN INDIVIDUAL RECEIVING SERVICES FUNDED BY THE  
10 ADMINISTRATION IN STATE OPERATED COMMUNITY PROGRAMS LICENSED BY THE  
11 ADMINISTRATION.

12 5-802.

13 (a) There is a Mortality AND QUALITY Review Committee established within  
14 the Department.15 (b) The purpose of the Committee is to prevent avoidable deaths AND SERIOUS  
16 INCIDENTS and to improve the quality of care provided to persons with developmental  
17 disabilities.

18 5-803.

19 The Committee shall:

20 (1) Evaluate causes or factors contributing to:

21 (I) [deaths] DEATHS in facilities or programs operated or licensed  
22 by the Mental Hygiene Administration and the Developmental Disabilities  
23 Administration or operating by waiver under § 7-903(b) of this article; OR24 (II) SERIOUS INCIDENTS IN FACILITIES OR PROGRAMS LICENSED  
25 BY THE DEVELOPMENTAL DISABILITIES ADMINISTRATION OR OPERATING BY  
26 WAIVER UNDER § 7-903(B) OF THIS ARTICLE;27 (2) Identify patterns and systemic problems and ensure consistency in  
28 the review process; and29 (3) Make FINDINGS AND recommendations to the Secretary AND THE  
30 DEPARTMENT OF DISABILITIES [to prevent] ON:31 (I) THE PREVENTION OF avoidable deaths AND SERIOUS  
32 INCIDENTS;

33 (II) SYSTEMIC QUALITY ASSURANCE NEEDS; and

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

1 5-804.

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

4 (1) A licensed physician who is board certified in an appropriate  
5 specialty;

6 (2) A psychopharmacologist;

7 (3) A licensed physician on staff with the Department;

8 (4) Two specialists, one in the field of developmental disabilities and one  
9 in the field of mental health;

10 (5) Two licensed providers of community services, one for persons with  
11 developmental disabilities and one for persons with mental illnesses;

12 (6) Two consumers, one with a developmental disability and one with a  
13 mental illness;

14 (7) Two family members, one representing a consumer with a  
15 developmental disability and one representing a consumer with a mental illness;

16 (8) The Deputy Secretary of Public Health or the Deputy Secretary's  
17 designee;

18 (9) The Director of the Office of Health Care Quality;

19 (10) A licensed physician representative from the Medical Examiner's  
20 Office;

21 (11) A licensed nurse who works with persons with developmental  
22 disabilities in a program operated by a State licensed provider in the community;

23 (12) A member of an advocacy group for persons with disabilities; [and]

24 (13) Two members of advocacy groups, one for persons with  
25 developmental disabilities and one for persons with mental illnesses; AND

26 (14) OTHER INDIVIDUALS NECESSARY TO CARRY OUT § 5-806 OF THIS  
27 SUBTITLE, DETERMINED BY THE COMMITTEE.

28 (b) (1) The term of each member appointed under subsection (a)(1), (2), (4),  
29 (5), (6), and (10) of this section is 3 years.

30 (2) A member who is appointed after a term has begun serves only for  
31 the rest of the term and until a successor is appointed.

32 (3) A member may not be appointed for more than two consecutive full  
33 terms.

1 (4) The terms of the members are as follows:

2 (i) One-third of the members shall be appointed for terms of 3  
3 years commencing October 1, 2000;

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

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

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

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

11 (d) A member of the Committee:

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

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

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

16 (f) (1) An employee of the Developmental Disabilities Administration or the  
17 Mental Hygiene Administration may not be a member of the Committee or any  
18 subcommittee of the Committee.

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

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

24 (h) A quorum of the Committee shall be a majority of the appointed  
25 membership of the Committee.

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

27 5-805.

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

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

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

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

9 (c) The Committee shall:

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

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

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

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

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

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

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

35 5-806.

36 (A) THE OFFICE OF HEALTH CARE QUALITY SHALL DEVELOP AN ANALYSIS OF  
37 THE AGGREGATE DATA ON TRENDS AND PATTERNS OF SERIOUS INCIDENTS  
38 VERIFIED BY THE DEPARTMENT AND OTHER COMPLAINTS DISCLOSED BY A FACILITY

1 OR PROGRAM OPERATED OR LICENSED BY THE DEVELOPMENTAL DISABILITIES  
2 ADMINISTRATION OR OPERATING BY WAIVER UNDER § 7-903(B) OF THIS ARTICLE.

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

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

8 [5-806.] 5-807.

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

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

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

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

16 [5-807.] 5-808.

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

20 [5-808.] 5-809.

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

23 (I) [public] PUBLIC distribution; AND

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

28 (2) The report shall include:

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

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

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

1 (IV) [summary] THE findings AND RECOMMENDATIONS MADE  
2 UNDER THIS SUBTITLE.

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

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

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

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

13 [5-809.] 5-810.

14 (a) The Committee shall maintain records of its deliberations including any  
15 recommendations.

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

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

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

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

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

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

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

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

4 [5-810.] 5-811.

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

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