

AMENDMENT TO OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES REGULATIONS

Health Alert
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Practices & Industries
Healthcare

The Office for People with Developmental Disabilities (OPWDD) recently published proposed rules that could potentially affect two parts of Title 14 (regulations concerning the Department of Mental Hygiene) of the New York Codes, Rules, and Regulations (NYCRR)—if they are ultimately adopted. The details of these proposed rules can be found in the August 17, 2011 New York State Register. Public comments will be received until 45 days after publication, which is October 1, 2011.

Investigation and Review

OPWDD proposes to change 14 NYCRR 624.5(c)(1) for the purpose of reducing “conflicts of interest in the investigation” and reviewing “serious reportable incidents and abuse allegations.”

- This section now explicitly prohibits certain activities during the course of investigation to ensure that investigations occur at “arms length.” OPWDD’s “minimum expectation regarding independence” of investigations includes the prohibition of anyone “in the line of supervision of staff ... directly involved” in the incident from conducting the investigation, with the exception of the CEO. The CEO may conduct the investigation unless he or she is the immediate supervisor of the person directly involved with the incident in question.
- In reviewing serious reportable incidents and abuse allegations, no review committee member may participate in the review if he or she is the immediate supervisor of the staff member involved in the event or situation. Such committee members may, however, participate in deliberations regarding corrective or preventive actions.

Training Requirements

OPWDD also proposes changes to 14 NYCRR 633.8(a) and (b) related to training requirements for employees, volunteers, family care providers, and board members in the OPWDD system.

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- Members of boards of directors of not-for-profit corporations which operate certified facilities, provide home- and community-based waiver services, or provide Medicaid service coordination must also receive one-time training within three months of becoming a board member. As proposed, this rule would go into effect as of November 1, 2011. Board members already serving on November 1, 2011 would have until February 1, 2012 to complete training if they remain on the board as of that later date.
- All individuals for whom training is required must have annual training in five areas specified in the regulations, including newly added training on how to promote positive relationships with the individuals they serve and training in fire safety.

We will continue to monitor the status of these proposed regulations, as well as any changes that may occur if and when the regulations are ultimately adopted.