§ 7.33 Boards of visitors.

(a) Each hospital in the department shall have a board of visitors consisting of seven members; provided, however, that a hospital at the Pilgrim psychiatric center and a hospital at the Rochester psychiatric center shall have a board of visitors consisting of at least seven, but not more than ten members. Members appointed or reappointed after the effective date of this chapter shall be appointed by the governor, by and with the advice and consent of the senate. Members shall be appointed for four year terms to expire on the thirty-first day of December of the fourth year of the term of office provided however, when more than three terms expire in any one year, members may be appointed for terms of fewer years as designated by the governor so that no more than three members' terms expire in any one year. All terms of office shall expire on the thirty-first day of December of the designated year. A member whose term has expired shall, however, remain in office until such member's successor has been appointed and has taken office, or until such members shall have resigned or have been removed from office in the manner hereinafter provided. Should any member resign or be removed from office, the governor shall promptly submit, for senate consent, a successor candidate to fill the remaining term of the vacated office. A visitor may be removed by the governor for cause after notice and an opportunity for a hearing on the charges. In making appointments to boards of visitors, the governor shall endeavor to ensure that the membership of each such board shall adequately reflect the composition of the community or communities served by the facility, that the membership of each such board includes at least three individuals who are parents or relatives of patients or of former patients and that the remainder includes only those persons, including former patients, who shall have expressed an active interest in, or shall have obtained professional knowledge in the care of the mentally ill or in mental health endeavors generally.

(b) No elected state officer or member of the legislature may serve as a visitor.

(c) If the hospital serves an area, as established by the regulations of the commissioner, the visitors shall reside at the time of appointment or reappointment in such area. If no specific area is designated but mental health regions have been duly established, the

visitors shall reside at the time of appointment or reappointment in the mental health region in which the department facility is located.

(d) Each board shall, at the first meeting of each calendar year elect one member to serve as president of the board and one member to serve as secretary; provided however, that no member may serve for more than two consecutive years as president.

(e) Visitors shall not receive compensation but shall be reimbursed for their actual expenses in connection with their service as visitors.

(f) (1) Each board of visitors shall hold six bi-monthly regular meetings annually, but a greater number of regular meetings may be scheduled by the board. Each board of visitors shall establish in their by-laws or otherwise, in writing, whether these six meetings shall be held during months represented by odd numbers or months represented by even numbers. The president of the board shall notify the chairman of the commission on quality of care for the mentally disabled and the facility director of the determination made concerning the designated months for the six bi-monthly regular meetings. The president of the board, the commissioner, the director, or the members as determined by the rules of the board may call special meetings. The board may require the director to submit a report at each meeting. Each board shall keep a record of its proceedings and activities. A member of a board of visitors who has failed to attend three consecutive bi-monthly regular meetings shall be considered to have vacated his office unless otherwise ordered by the governor. The board shall cause notice of any of its public meetings to be sent to the mental hygiene legal service located in the same judicial department as the hospital. The mental hygiene legal service may send a representative to any such public meeting, and may request the board to review patient complaints or investigate alleged incidents of abuse or mistreatment. The board shall notify the appropriate representative of the mental hygiene legal service of the board's actions and findings in relation to any such request.

(2) The president of the board of visitors shall notify a member by certified or registered mail with return receipt requested when such member of the board has failed to attend any two consecutive bi-monthly regular meetings. This notice shall be sent within ten days following the second meeting and shall include the dates of the two meetings which were missed, the date of the next bi-monthly regular meeting, and a

statement concerning the consequences of failure to attend the next bi-monthly meeting.

(3) Within three days after the third consecutive absence at a bi-monthly regular meeting by a member, the president of the board of visitors shall notify, in writing, the governor, the commissioner, the chairman of the commission on quality of care for the mentally disabled and the facility director of such absences. The president of the board of visitors shall send a copy of this notice to the member by registered or certified mail return receipt requested. The member may petition the governor to excuse his absences. If the governor does not excuse the absences within forty-five days of the date of the third consecutive meeting absence, the office of the member shall be deemed vacated.

(g) Upon the request of the commissioner or the director, or upon the board's initiative, the board shall consult, advise, and work with the director with respect to community relations, conditions at the department facility, preliminary plans for construction and alterations, and programs and activities of the department facility.

(h) Each board or any member of the board may visit and inspect the department facility at any time without prior notice and may report on conditions to the governor, to the commissioner and to the chairman of the state commission on quality of care for the mentally disabled. In addition, each board shall ensure that a member or committee of members shall inspect the department facility once every three months without prior notice. A report on conditions may be submitted to the governor, to the commissioner or to the chairman of the state commission on quality of care for the mentally disabled. Each board member shall visit and inspect the facility at least twice during each calendar year. Within thirty days after the conclusion of each calendar year the president of the board of visitors shall notify the governor, the commissioner, the chairman of the commission on quality of care for the mentally disabled and the facility director, if any member of the board has failed to visit and inspect the facility at least twice during that year. The president of the board of visitors shall send a copy of this notice by certified or registered mail return receipt requested to the member to whom it pertains. A member of a board of visitors who has failed to visit and inspect the facility at least twice a year shall be considered to have vacated his office unless otherwise ordered by the

governor within forty-five days after the end of the calendar year. The board shall have the power to investigate all charges against the director and all cases of alleged patient abuse or mistreatment made against any employee and shall have the power to interview patients and employees of the facility in pursuit of such investigations. In conducting such an investigation, the board shall have the power, in accordance with the civil practice law and rules, to subpoena witnesses, compel their testimony, administer oaths to witnesses, examine witnesses under oath, and require the production of any books or papers deemed relevant to the investigation. A board or a member may include in the report or separately at any time any matter pertaining to the management and affairs of the facility and may make recommendations to the governor, to the commissioner and to the chairman of the state commission on quality of care for the mentally disabled. Each board member shall enter in a book, kept at each facility for that purpose, the date of each visit.

(i) (1) Any member or members of the board may visit and inspect a family care home, which is within the catchment area of the hospital on the board of which such member or members serve. Such member or members shall be granted access to such facility and to all books, records and data pertaining to such facility deemed necessary for carrying out the purposes of such visit. Information, books, records or data which are confidential as provided by law shall be kept confidential and any limitations on the release thereof imposed by law upon the party furnishing the information, books, records or data shall apply to such member or members of the board. After any such visits or inspection, a report containing findings and recommendations may be submitted to the governor, to the commissioner or to the state commission on quality of care for the mentally disabled.

(2) Any member or members of the board may visit and inspect a community residence or residential care center for adults, operated by the office of mental health, which is within the catchment area of the hospital on the board of which such member or members serve. Such member or members shall be granted access to such facility and to all books, records and data pertaining to such facility deemed necessary for carrying out the purposes of such visit and inspection. Information, books, records or data which are confidential as provided by law shall

be kept confidential and any limitations on the release thereof imposed by law upon the party furnishing the information, books, records or data shall apply to such member or members of the board. After any such visits or inspection, a report containing findings and recommendations shall be submitted promptly to the commissioner and to the chairman of the state commission on quality of care for the mentally disabled.

(j) Once each year, each board shall make an independent assessment of conditions at the facility and shall submit a report on the assessment and recommendations to the governor, to the commissioner and to the chairman of the state commission on quality of care for the mentally disabled.

(k) The commissioner shall notify the board of visitors of a hospital of the proposed appointment of a director to such facility or the proposed transfer of a director from such facility, with a request that the board report an expression of its opinion of the appointment or transfer and, if it objects thereto, the reasons for such objection.

(l) The commissioner shall appoint representatives of the office to serve as liaison between the office and the boards of visitors. At least once each year such commissioner shall meet with the boards collectively. The commissioner, or his designee, shall meet quarterly with representatives of boards of visitors.

(m) Members of the boards of visitors shall be considered officers of the department for the purposes of sections seventy-three, to the extent provided therein, and seventy-four of the public officers law relating to business or professional activities by state officers and employees and the code of ethics.

(n) Each member shall attend, within one year of the initial appointment or any subsequent reappointment, an orientation training program provided by the commission on quality of care for the mentally disabled for members of boards of visitors. The chairman of the commission on quality of care for the mentally disabled shall notify the governor and the appointed member of any such member's failure to attend such a training program. A member who has failed to attend such a training program scheduled for such member shall be considered to have vacated his office unless otherwise ordered by the governor within forty-five days after the notice.