Mandatory Face Coverings in OPWDD Certified Services
Addition of 14 NYCRR Section 633.26

Emergency/Proposed Rulemaking Regulations

Effective Date: Upon Filing

- A new section 633.26 is added to read as follows:

633.26 Mandatory Face Coverings

(a) Applicability

(1) This section applies to all agencies providing services or operating facilities that are certified or operated by OPWDD (hereinafter "Providers of Services").

(b) Legal Basis

(1) Section 13.07 of the Mental Hygiene Law charges the OPWDD with the responsibility for seeing that persons with developmental disabilities are provided with care and treatment, and that such care, treatment and rehabilitation is of high quality and effectiveness.

(2) Section 13.09 of the Mental Hygiene Law gives the commissioner of OPWDD the power and responsibility to adopt regulations that are necessary and proper to implement matters under his or her jurisdiction.

(3) Section 16.00 of the Mental Hygiene Law grants the commissioner of OPWDD the power and responsibility to adopt regulations to effectuate the provisions and purposes of article 16 of such law, including procedures for the issuance and amendment of operating certificates, and for setting standards of quality and adequacy of facilities.

(4) Section 16.11 of the Mental Hygiene Law authorizes the commissioner of OPWDD to provide for the oversight of facilities and providers of services holding operating certificates pursuant to section 16.03 of this article.

(c) Mask wearing requirements

(1) All Providers of Services shall require all staff, volunteers, contractors, vendors, visitors and individuals receiving services to wear appropriate face coverings, consistent

with any directives issued by OPWDD and consistent with guidance from the Centers for Disease Control and Prevention (CDC).

(d) Exemptions from face covering requirements

(1) Face coverings are not required to be worn by:

(i) Children under two years of age

(ii) A person with a disability who cannot wear a mask, or cannot safely wear a mask, for reasons related to the disability, or

(iii) A person for whom wearing a mask would create a risk to workplace health, safety, or job duty as determined by an Occupational Health and Safety Administration workplace risk assessment.

(e) Enforcement

(1) OPWDD will enforce this mandate as part of its oversight activities in accordance with the authority set forth in subsection b of this section.

Note: New material is underlined and deleted material is in [brackets].