



# Notice of Privacy Practices

**Effective September 23, 2013**

THIS NOTICE DESCRIBES HOW IDENTIFIABLE INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION

PLEASE REVIEW IT CAREFULLY

If you have any questions about this notice, please contact your local Developmental Disabilities State Operations Office (*See page 4 of this notice for contact number*).

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## **Our Privacy Commitment to You**

At OPWDD, we understand that information about you and your services is personal. We are committed to protecting your privacy and sharing information only with those who need to know and are allowed to see the information to assure quality services for you. This notice describes how OPWDD uses and discloses protected health information about you for treatment, payment and health care operations. It also describes your rights to access and control your protected health information and OPWDD's responsibilities to maintain your protected health information. Protected health information (PHI) is information that may identify you and relates to your past, present or future physical or mental health condition, services and payment for such services. Sometimes this information is also referred to as clinical information. In this Notice, protected information will be referred to as "PHI" or "clinical information".

### **Who will follow this notice?**

All people who work for OPWDD in any facility or program directly operated by OPWDD including residences and nonresidential programs such as clinics, day programs, service coordination and supported work, day (nonresidential) services programs, and OPWDD administrative offices will follow this notice. This includes all OPWDD employees and volunteers whom OPWDD allows to assist you.

In addition, contractors, agencies, and other organizations that provide services on behalf of OPWDD who are authorized to access your records and have agreed to protect your information will follow this Notice.

### **What information is protected?**

All information we create or keep that relates to you and your healthcare or treatment, including your name, address, birth date, social security number, medical information, individualized service plan, and other information (such as photographs and other images) is protected.

## **Your Clinical Information Rights**

You have the following rights concerning your clinical information. When we use the word "you" in this notice we also mean your personal representative. Depending on your circumstances and in accordance with state law, this may be your legal guardian, health care agent, or designated legal representative who may include an actively involved family member such as a spouse, domestic partner, parent, adult child, adult sibling, or other family member.

### **You have the right to:**

- See or inspect your clinical information and obtain a copy. Some exceptions apply, such as records regarding incident reports and investigations, and information compiled for use in court or administration proceedings. If we deny your request to see your clinical information, you have the right to request a review of that denial. A Clinical Records Access Review Committee will review the record and decide if you may have access to the record.
- Ask OPWDD to change or amend clinical information that you believe is incorrect or incomplete. We may deny your request in some cases, for example, if the record was not created by OPWDD or if after reviewing your request, we believe the record is accurate and complete.
- Request a list of the disclosures OPWDD has made of your clinical information. The list, however, does not include certain disclosures, such as those made for treatment, payment, and health care operations, or disclosures made to you or made to others with your permission.
- Request that OPWDD communicates with you in a way that will help keep your information confidential.
- Request a restriction on uses or disclosures of your clinical information related to treatment, payment, health care operations, and disclosures to involved family. OPWDD, however, is not required to agree to your request unless you have paid for your services in full with your own money and are requesting restrictions on information pertaining only to those services for payment or health care operations and the disclosure is not required by law.

- Receive a paper copy of this notice. You may ask OPWDD staff to give you another copy or you may obtain one from our website at [www.opwdd.ny.gov](http://www.opwdd.ny.gov).
- Be notified following a breach of unsecured PHI. When your clinical information is disclosed to unauthorized persons and can be read by them, we must notify you that this has happened.

### Requesting Access to your Clinical Information

To request access to your clinical information or to request any of the rights listed here, you may contact your local Developmental Disabilities Operations Office (*See page 4 of this notice for the contact number for your DDSOO*).

NOTE: OPWDD requires you to make your requests in writing.

### OPWDD's Responsibilities For Your Clinical Information

#### OPWDD is required to:

- Keep and maintain the privacy of your clinical information in accordance with federal and state laws.
- Give you this notice of our legal duties and practices concerning the clinical information we maintain about you.
- Follow the rules in this notice. OPWDD will use or share information about you only with your permission or for one of the reasons explained in this notice.

Tell you if we make changes to our privacy practices in the future. If significant changes are made, OPWDD will give you a new notice and post a new notice on our website at [www.opwdd.ny.gov](http://www.opwdd.ny.gov).

### How OPWDD Uses and Discloses Clinical Information

OPWDD may use and disclose clinical information without your permission for the purposes described below. For each of the categories of uses and disclosures, we explain what we mean and offer an example. Not every use or disclosure is described, but all of the ways we will use or disclose information will fall within these categories.

#### Treatment

- OPWDD will use your clinical information to provide you with treatment and services. We may disclose clinical information to doctors, nurses, psychologists, social workers, qualified intellectual disability professionals (QIDPs), direct support professionals, and other OPWDD personnel, volunteers, or interns who work with us to provide you with services.

#### For example:

- involved staff may discuss your clinical information to develop and carry out your individualized service plan (ISP);

- other OPWDD staff may share your clinical information to coordinate different services you need, such as medical tests, respite care, transportation, etc;
- we may also need to disclose your clinical information to your service coordinator and other providers outside of OPWDD who are responsible for providing you with the services identified in your ISP or to obtain new services for you;
- we may use and disclose clinical information to contact you as a reminder that you have an appointment for treatment or services at one of our programs.

#### Payment

- OPWDD will use your clinical information so that we can bill and collect payment from you, a third party, an insurance company, Medicare or Medicaid, or other government agencies.

#### For example:

- we may need to provide the NYS Department of Health (Medicaid) with information about the services you received in our facility or through one of our HCBS waiver programs so they will pay us for the services;
- we may disclose your clinical information to receive prior approval for payment for services you may need;
- we may disclose your clinical information to the federal Social Security Administration or the Department of Health to determine your eligibility for coverage or your ability to pay for services, or to coordinate your benefits and payment for services.

#### Health Care Operations

- OPWDD will use clinical information for administrative operations. These uses and disclosures are necessary to operate OPWDD programs and residences and to make sure all individuals receive appropriate, quality care.

#### For example:

- we may use clinical information for quality improvement to review our treatment and services and to evaluate the performance of our staff in caring for you;
- we may disclose information to clinicians and other personnel for on-the-job training;
- we may share your clinical information with other OPWDD staff to: obtain legal services through OPWDD Counsel's Office, conduct fiscal audits, detect fraud and abuse, review incident management, and assure program compliance through our Division of Quality Improvement, Office of Investigations and Internal Affairs, and Employee Relations Office;

- we may share your clinical information with OPWDD staff to resolve complaints or objections to your services;
- we may also disclose clinical information to our business associates who need access to the information to perform administrative or professional services on our behalf. These business associates have the same responsibility as OPWDD to protect the privacy of your information.

### **Other Uses and Disclosures that Do Not Require your Permission**

In addition to treatment, payment, and health care operations, OPWDD will use your clinical information without your permission for the following reasons:

- When required to do so by federal or state law;
- For public health reasons, including prevention and control of disease, injury or disability, reporting births and deaths, reporting abuse or neglect, reporting reactions to medication or problems with products, and to notify people who may have been exposed to a disease or are at risk of spreading the disease;
- To report domestic violence and adult abuse or neglect to government authorities if you agree or if necessary to prevent serious harm;
- For health oversight activities, including audits, investigations, surveys, inspections, and licensure. These activities are necessary for government to monitor the health care system, government programs, and compliance with civil rights laws;
- For judicial and administrative proceedings, including hearings and disputes. If you are involved in a court or administrative proceeding we will disclose clinical information if the judge or presiding officer orders us to share the information;
- For law enforcement purposes; in response to a court order or subpoena; to report a possible crime; to identify a missing person, suspect or witness; to provide identifying data in connection with a criminal investigation; and to the district attorney in furtherance of a criminal investigation of client abuse;
- Upon your death, to coroners or medical examiners for identification purposes or to determine cause of death, and to funeral directors to allow them to carry out their duties;
- To organ procurement organizations to accomplish cadaver, eye, tissue, or organ donations in compliance with state law;
- For research purposes when you have agreed to participate in the research and the Institutional Review Board or Privacy Committee has approved the use of the clinical information for the research purposes;
- To prevent or lessen a serious and imminent threat to

your health and safety or to the health and safety of someone else;

- To authorized federal officials for intelligence and other national security activities authorized by law or to provide protective services to the President and other officials;
- To correctional institutions or law enforcement officials if you are an inmate and the information is necessary to provide you with health care, protect your health and safety or that of others, or for the safety of the correctional institution;
- To governmental agencies that administer public benefits if necessary to coordinate services and benefits you receive or apply for.

### **Disclosures to Certain Persons If You Agree or Do Not Object**

OPWDD may disclose clinical information to the following persons if we tell you we are going to use or disclose it and you agree or do not object:

- To family members and personal representatives who are involved in your care, or in payment for your care, if the information is relevant to their involvement, or to notify them of your condition and location; or
- To disaster relief organizations that need to notify your family about your condition and location should a disaster occur.

### **Authorization Required For All Other Uses and Disclosures**

For all other types of uses and disclosures not described in this Notice, OPWDD will use or disclose clinical information only with a written authorization signed by you that states who may receive the information, what information is to be shared, the purpose of the use or disclosure, and an expiration date for the authorization.

- Written authorizations are always required for use and disclosure of psychotherapy notes (notes of counseling sessions that are kept separate from an individual's clinical record), the sale of PHI, and for marketing purposes.
- Under New York State Law, confidential HIV-related information (information concerning whether or not you have had an HIV-related test, or have HIV infection, HIV-related illness, or AIDS, or which could indicate that a person has been potentially exposed to HIV), cannot be disclosed except to those people you authorize in writing to have it.

- If you have received alcohol or substance abuse treatment from an alcohol/substance abuse program that receives funds from the United States government, federal regulations may further protect your treatment records from disclosure without your written authorization.

*NOTE: OPWDD does NOT use your clinical information for marketing or fundraising purposes, nor will we ever sell your clinical information.*

### **Our Responsibility to You**

OPWDD is required by state and federal law to maintain the privacy of your health information. We are required to give you this notice of our legal duties and privacy practices with respect to the health information that OPWDD collects and maintains about you. We are required to follow the terms of this notice.

### **Revocation**

You may revoke your authorization to disclose your clinical information at any time. If you revoke your authorization in writing we will no longer use or disclose your clinical information for the reasons stated in your authorization. We cannot, however, take back disclosures we made before you revoked and we must retain clinical information that indicates the services we have provided to you.

### **Changes to this Notice**

We reserve the right to change this notice. We reserve the right to make changes to terms described in this notice and to make the new notice terms effective to all clinical information that OPWDD maintains. We will post the new notice with the effective date on our website at [www.opwdd.ny.gov](http://www.opwdd.ny.gov) and in our facilities. In addition, we will offer you a copy of the revised notice at your next scheduled service planning meeting.

### **Complaints**

#### **If you believe your privacy rights have been violated:**

- You may file a complaint with the Director of your local Developmental Disabilities State Operations Office (DDSOO).
- You may contact the Secretary of the Department of Health and Human Services. [200 Independence Ave. S. W. Washington D. C. 20210, phone 1-877-696-6775]
- You may file a grievance with the Office for Civil Rights Region II office at Jacob Javits Federal Building, 26 Federal Plaza – Suite 3312, New York, NY 10278. Voice phone (800) 368-1019; FAX (212) 264- 3039; TDD (800) 537-7697, or by email: [OCRComplaint@hhs.gov](mailto:OCRComplaint@hhs.gov).

All complaints must be submitted in writing. You will not be penalized for filing a complaint.

## **Developmental Disabilities State Operations Office Contact Numbers**

### **Developmental Disabilities State Operations Office 1**

Finger Lakes Region  
585-461-8500, FAX: 585-461-8764,

Western New York Region  
716-517-2000, 800-487-6310, FAX: 716-674-7488

### **Developmental Disabilities State Operations Office 2**

Broome Region  
607-770-0211, FAX: 607-770-8037

Central New York Region  
315-473-5050, FAX: 315-473-5053

### **Developmental Disabilities State Operations Office 3**

Capital District  
518-370-7331, FAX: 518-370-7401

Sunmount Region  
518-359-3311, FAX: 518-359-4491

### **Developmental Disabilities State Operations Office 4**

Hudson Valley Region  
845-947-6100, FAX: 845-947-6004

Taconic Region  
845-877-6821, FAX: 845-877-9177

### **Developmental Disabilities State Operations Office 5**

Brooklyn  
718-642-6000,  
718-642-6053 / 6054 (evenings - answering machine)  
FAX: 718-642-6282

Manhattan  
212-229-3000, FAX: 212-924-0580

Bronx  
718-430-0700, FAX: 718-430-0842  
718-983-5200, FAX: 718-983-9768

Staten Island  
718-642-6000, FAX: 718-642-6282

### **Developmental Disabilities State Operations Office 6**

Bernard M. Fineson  
718-217-4242, FAX: 718-217-4724

Long Island  
631-493-1700, FAX: 631-493-1865



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