

Executive Office

44 Holland Avenue
Albany, NY 12229-0001

TEL: 518-473-1997
FAX: 518-473-1271
TTY: 866-933-4889

www.opwdd.ny.gov

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

September 26, 2011

Dr. Lorrie Henderson
Executive Director
New York City Chapter, NYS ARC, Inc
83 Maiden Lane
New York, NY 10038

Re: Day Habilitation Program
2621 East 17th St.
Brooklyn, NY
OC# 6105368

Dear Dr. Henderson:

This letter constitutes formal notification to you of our intent to impose a \$1,000 fine on your agency. Pursuant to Mental Hygiene Law section 16.17(g), the Commissioner may impose a fine upon a finding that the holder of the certificate has failed to comply with the terms of an operating certificate or with the provisions of any applicable statute, rule or regulation. As you know, this process was explained in the OPWDD Accountability Initiative Memorandum dated June 1, 2011, copy enclosed.

This action is based on the agency's failure to assure the health and safety of individuals in your care and to provide safe and adequate premises and personnel as evidenced by a transportation incident that occurred on September 12, 2011 at your agency's day habilitation site at 17th Street in Brooklyn.

Your agency reported that Bus #6BK6 arrived at the day habilitation site and dropped off individuals who attend the program. The bus left after 10-15 minutes and returned approximately 45 minutes later with an individual who should have exited the bus with the others. He was reportedly lying down in the back of the bus asleep. This event occurred only one month after the agency's agreement to implement a Plan of Corrective Action (POCA). This POCA was the result of a separate but similar incident when an individual was also left on an agency vehicle on August 2, 2011 that resulted in the death of that individual.

The POCA offered and approved on August 3, 2011 requires the agency to implement policies and procedures to log the presence of each program participant as he or she entered and disembarked from an agency vehicle. It also requires agency staff to log a visual check of the entire vehicle at the end of each trip to ensure all participants had exited. The safety measures were to be implemented agency-wide by August 15, 2011. Clearly these measures were not implemented on September 12, 2011, when this second incident occurred at the Brooklyn day habilitation site. Based on the failure of your agency to properly implement the agreed upon POCA and safety measures, a fine is hereby imposed on your agency in the amount of \$1,000.

Dr. Lorrie Henderson
September 26, 2011
Page 2

You have the right to an administrative hearing to appeal the imposition of this fine. You also have the right to be represented by an attorney at such hearing. If you want a hearing, you must make a written request within 30 days of your receipt of this letter. Your request must include a declaration of the issues alleged to be involved and documentation of the agency's position as to each identified issue. Send your request to:

Courtney Burke
Commissioner
NYS Office for People With Developmental Disabilities
44 Holland Avenue
Albany, NY 12229

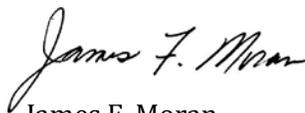
Your written request for a hearing must include a copy of this letter. You should also submit a copy of your request to me.

If you decide not to request a hearing, please remit payment of your fine immediately. The money should be sent in a lump sum payment. A check is the only acceptable form of payment. The check should be payable to OPWDD and forwarded to the following address:

OPWDD
Attention: Kerry Delaney, General Counsel
Counsel's Office – 3rd Floor
44 Holland Avenue
Albany, NY, 12229-0001

Finally, please be aware that the imposition of this fine does not preclude OPWDD from taking further adverse action if your agency fails to implement, and monitor the effectiveness of, a systemic plan of corrective action.

Sincerely,



James F. Moran
Acting Executive Deputy Commissioner

Enc.
cc: Counsel's Office
Ms. Arlene Pedone, President of the Board of Directors