

**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](http://www.opwdd.ny.gov)

**\*\*CERTIFIED MAIL\*\***  
RETURN RECEIPT REQUESTED

January 12, 2012

James Casion, Executive Director  
Baker Victory Services  
780 Ridge Road  
Lackawanna, NY 14218

Re: OC# 7600440

Dear Mr. Casion:

This letter constitutes formal notification of our intent to impose a \$2000.00 fine upon 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. 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 residents, and to provide safe and adequate premises and personnel, as evidenced by repeat deficiencies in the area of client protections, specifically dealing with administration of oxygen and failure to appropriately and correctly report allegations of mistreatment at the residence located at 790 Ridge Road Lackawanna, NY 14218.

A 60-day letter was issued on September 26, 2011, for seven incidents where individuals did not receive oxygen per physicians' orders. The Plan of Corrective Action (hereinafter POCA), dated November 4, 2011, provides that there will be a "check of the oxygen tank and oxygen tubing throughout each day, by all staff, after any oxygen source transfer is completed and/or any hands on activity is completed, which is documented on the Medical Monitoring Oxygen Equipment Check Form and which includes a verification sign off by second staff." The failure to follow this measure detailed in the POCA resulted in a 60-day letter, dated December 23, 2011, when an outside vendor was allowed into the home to refill the liquid oxygen tanks without the assistance or involvement of a staff member. A fine in the amount of \$1000.00 is imposed for the failure to follow your POCA with regard to oxygen administration.

The 60-day letter issued on September 26, 2011 also included a citation regarding the agency's failure to immediately report allegations of mistreatment, neglect or abuse and/or injuries of an unknown source and that alleged abuse, neglect and/or injuries of an unknown source are thoroughly investigated. Despite numerous measures to address this deficiency in the POCA dated November 4, 2011, this issue was not remedied. The 60-day letter, dated December 23, 2011, includes another occasion where the agency filed a minor incident under staff training instead of filing it as an allegation of mistreatment and failed to thoroughly investigate it. Therefore, a fine in the amount of \$1000.00 is imposed for the failure to follow the accepted POCA with regard to incident reporting and investigation.

Mr. James Casion  
January 12, 2012  
Page 2 of 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 – 3<sup>rd</sup> 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 maintain compliance with OPWDD regulations.

Sincerely,



Alan Eskenazi  
Deputy Commissioner

Enc.  
cc: Counsel's Office  
President, Board of Directors  
Deborah Burkhardt – DQI, OPWDD