

Appendix 6: Notice of Privacy Practices - Standard

New York State Office of Mental Health Notice of Privacy Practices

THIS NOTICE DESCRIBES HOW INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE REVIEW IT CAREFULLY.

1. **Our Commitment to You:** We at the New York State Office of Mental Health (OMH) understand that the information we collect about you and your health is personal. Keeping your health information confidential and secure is one of our most important responsibilities.

We keep a record of the care and services you receive at this facility. We need this record to provide you with quality care and to comply with certain legal requirements. We are committed to protecting your health information and to following all state and federal laws regarding the protection of your health information.

This notice tells you how we may use or release your health information. It also tells you about your rights and OMH's requirements concerning the use and disclosure of your health information.

We are required by law to:

- make sure that health information that identifies you is kept private
- give you this notice of our legal duties and privacy practices with respect to health information about you
- follow the terms of the notice that is currently in effect

If you have any questions about this notice, please contact _____ at _____.

2. **Who will follow this notice:** This notice describes the practices of (facility name) and that of:
 - Any other facility or program directly operated by OMH
 - Any student or member of a volunteer group we allow to help you while you are in our care
 - All employees, staff, and other personnel of OMH
 - Other

3. Your Health Information Rights:

You have the following rights regarding health information we have about you:

- **RIGHT to Inspect and Obtain Copies:** You have the right to inspect and obtain a copy health information that may be used to make decisions about your care. Usually, this includes medical and billing records. It does not include information that is needed for civil, criminal, or administrative actions or proceedings. We may charge a fee for the costs of copying, mailing, or other supplies associated with your request.

To inspect or obtain a copy health information that may be used to make decisions about you, you must submit your request in writing to

_____.

We may deny your request to inspect and obtain a copy in very limited circumstances. If you are denied access to your health information, you may request that the denial be reviewed. A Medical Records Access Review Committee will review your request and the denial. The person(s) conducting the review will not include the person who denied your request. We will comply with the outcome of the review.

- **RIGHT to Amend:** If you feel that the health information we have about you is incorrect or incomplete, you may ask us to amend that information. We may deny your request if you ask to amend information that: (1) was not created by us; (2) is not part of the health information kept by us; (3) is not part of the information which you would be permitted to inspect or copy; or (4) is determined to be accurate and complete. You have the right to request an amendment for as long as the information is kept by or for us.

To request an amendment, your request must be made in writing and submitted to

_____. In addition, you must provide a reason that supports your request.

- **RIGHT to an Accounting of Disclosures:** You have the right to request a list of information releases that we have made of your health information. The list will not include: health information releases: (1) made for purposes of providing treatment to you, obtaining payment for services, or releases made for other administrative or operational purposes; (2) made for national security; (3) made to correctional and other law enforcement custodial situations; (4) made based on your written authorization; (5) made to

persons who are involved in your care; or (6) made prior to April 14, 2003.

To request this list or accounting of disclosures, you must submit your request in writing to _____ . Your request must state a time period which may not be longer than 6 years and may not include dates before April 14, 2003. Your request should indicate in what form you want the list (for example, on paper or electronically). The first list you request within a 12 month period will be free. For additional lists, we may charge you for the costs of providing the list. We will notify you of the cost involved and you may choose to withdraw or modify your request at that time before any costs are incurred.

- **RIGHT to Request Restrictions:** You have the right to request a restriction or limitation on the health information we use or disclose about you for the purpose of treatment, payment, or health care operations. You also have the right to request that we restrict or limit health information about you that we may use or disclose to someone who is involved in your care or the payment for your care, such as a family member. For example, you could ask that we not use or disclose information about the medication you are taking to your spouse or significant other.

We are not required to agree to your request. If we do agree, we will comply with your request unless the information is needed to provide you with emergency treatment.

To request restrictions, you must make your request in writing to _____ . In your request, you must tell us: (1) what information you want to limit; (2) whether you want to limit our use, disclosure, or both; and (3) to whom you want the limits to apply (for example, disclosures to your spouse).

- **RIGHT to Request Confidential Communications:** You have the right to request that we communicate with you about your health matters in a certain way or at a certain location. For example, you can ask that we only contact you at a certain phone number or by mail.

To request confidential communications, you must make your request in writing to _____ .

We will not ask you the reason for your request. We will accommodate all reasonable requests. Your request must specify how or where you wish to be contacted.

- **RIGHT to a Paper Copy of this Notice:** You have a right to a paper copy of this notice. You may ask us to give you a copy of this notice at any time. Even if you have agreed to receive this notice electronically, you are still entitled to a paper copy of this notice.

You may obtain a copy of this notice at our website, www.omh.state.ny.us. To obtain a paper copy of this notice,

4. **How we may use and disclose health information about you:**

Your health information, which includes any information that relates to your past, present, or future health/mental health condition (which might include your photograph), may be used and released by OMH for the purposes of providing treatment to you, obtaining payment for services, for administrative and operational purposes, and to evaluate the quality of the services you receive. OMH provides a wide range and variety of health care to the people of New York. For this reason, not all types of uses and releases can possibly be described in this document. We have listed some common examples of permitted uses and disclosures below.

- **For Treatment:** Caregivers, such as nurses, doctors, therapists and social workers, may use your health information to determine your plan of care. Individuals and programs within OMH may share health information about you to coordinate the services you may need, such as clinical examinations, therapy, nutritional services, medications, hospitalization, or transfers or referrals for follow-up care. We may use health information about you to provide you with treatment or services.
- **For Payment:** OMH may release information about you to your health plan or health insurance carrier to obtain payment for our services. For example, we may need to give your health plan information about a clinical exam or medications that you received so your health plan will pay us for treatment or services we provided. We may also share your information, when appropriate, with other government programs such as Workers' Compensation, Medicaid, Medicare, or Indian Health Services to determine if you are eligible for, or to coordinate, your benefits, entitlements, and payments. We may need to disclose a limited amount of information about you to explore your financial situation for possible sources of payment for your care, but we will only do so as permitted under law. We may also tell your health plan about a treatment you are going to receive to obtain prior approval or to determine whether your plan will cover the treatment. If you are due a refund of money because you have overpaid for our services, we may share a limited amount of your information with the NYS Office of the State Comptroller to obtain that refund for you.

- **For Operations:** OMH may use and release information about you to ensure that the services and benefits provided to you are appropriate and are high quality. For example, we may use your information to evaluate our treatment and service programs or to evaluate the services of other providers that use government funds to provide health care services to you. We may combine health information about many individuals to research health trends, or determine what services and programs should be offered, or whether new treatments or services are useful. We may share your health information with our business partners who perform functions on our behalf. For example, our business partners may use your information to perform coordination of care or other assessment activities. OMH requires that our business partners abide by the same level of confidentiality and security as OMH when handling your information.
- **To Keep You Informed:** Unless you provide us with alternative instructions, we may contact you about reminders for treatment, medical care, or health check-ups. We may also contact you to tell you about health related benefits or services that may be of interest to you or to give you information about your health care choices.
- **Facility Directories:** Some OMH facilities use patient directories. If you are receiving care from a facility that does use one, and if you do not object, we may put your name and location in our patient directory for disclosure to callers or visitors who ask for you by name. Additionally, your religious affiliation may be shared with clergy.
- **To Other Government Agencies Providing Benefits or Services:** We may release your health information to other government agencies that are providing you with benefits or services when the information is necessary for you to receive those benefits or services.
- **Research:** OMH may release your health information for research projects that have been reviewed and approved by a special approval process to ensure the continued privacy and protection of the health information. We may also disclose health information about you to people preparing to conduct a research project, for example, to help them look for patients with specific medical needs, so long as the health information they review does not leave our facility.
- **As Required by Law:** We will disclose health information about you when required to do so by federal, state, or local law.
- **To Avert a Serious Threat to Health or Safety:** We may release your health information if it is necessary to prevent a serious threat to your health or safety or to the health and safety of the public or another person.

- **For Public Health Activities:** We may disclose health information about you to public health agencies, subject to the provision of applicable state and federal law, for the following kinds of activities:
 - to prevent or control disease, injury or disability
 - to report births and deaths
 - to report child abuse or neglect to agencies authorized by law to receive these reports
 - to report reactions to medications or problems with products to the Food and Drug Administration (FDA)
 - to notify people of recalls of products they may be using
 - to notify a person who may have been exposed to a disease or may be at risk for contracting or spreading the disease or condition
 - to notify the appropriate government authority if we believe a patient has been the victim of abuse, neglect or domestic violence; we will only make this disclosure if you agree or when required or authorized by law
- **For Health Oversight Activities:** OMH may share your health information within OMH and with other agencies for oversight activities authorized by law. Examples of these oversight activities include audits, inspections, investigations, and licensure.
- **Lawsuits and Disputes:** If you are involved in a lawsuit or dispute, we may release health information about you in response to a court or administrative order. We may also release health information about you in response to a court order, subpoena, discovery request, or other lawful process by someone else involved in the dispute, but only if efforts have been made to tell you about the request or to obtain an order protecting the information required.
- **For Law Enforcement:** We may release health information to a law enforcement official:
 - in response to a court order, subpoena, warrant, summons, or other similar process
 - to identify or locate a suspect, fugitive, material witness, or missing person

- about the victim of a crime if, under certain limited circumstances, we are unable to obtain the person's agreement
 - about a death we believe may be the result of criminal conduct
 - about criminal conduct at the hospital
 - in emergency circumstances to report a crime; the location of the crime or victims; or the identity, description or location of the person who committed the crime
- **Coroners, Medical Examiners and Funeral Directors:** We may release health information to a coroner or medical examiner to carry out their duties as authorized by law (for example, to identify a deceased person or determine the cause of death). We may also release health information to funeral directors as necessary to carry out their duties.
 - **Organ Donation:** If you are an organ donor, we may release your health information to an organization that procures, banks, or transports organs for the purpose of an organ, eye, or tissue donation or transplantation.
 - **National Security and Protection of the President:** We may release your health information to an authorized federal official or other authorized persons for purposes of national security, for providing protection to the President, or to conduct special investigations, as authorized by law.
 - **Inmates/Forensic Patients:** If you are an inmate of a correctional institution, or a person who is receiving care in a psychiatric hospital as a result of a criminal court order or are under the custody of a law enforcement official (that is, a forensic patient), we may release health information about you to the correctional institution or law enforcement official. The information released must be necessary for the institution to provide you with health care, to protect your health and safety or the health and safety of others, or for the safety and security of the correctional institution or psychiatric hospital.
 - **To the Military:** If you are a veteran or a current member of the armed forces, we may release your health information as required by military command or Veterans Administration authorities.

If you do not object and the situation is not an emergency and disclosure is not otherwise prohibited by stricter laws, we are permitted to release your health information under the following circumstances:

To Individuals Involved in Your Care: We may release your health information to a family member, other relative, friend, or other person who you have identified to be involved in your health care or the payment of your health care.

To Family: We may use your health information to notify a family member, a personal representative or a person responsible for your care, of your location, general condition, or death.

To Disaster Relief Agencies: We may release your health information to an agency authorized by law to assist in disaster relief efforts.

5. What is NOT Covered Under this Notice?

○ **Confidential HIV Related Information:**

Under New York State law, confidential Human Immunodeficiency Virus (HIV)-related information (information concerning whether or not you have had an HIV-related test, or have HIV infection, HIV-related illness, or Acquired Immune Deficiency Syndrome (AIDS), or which could indicate that a person has been potentially exposed to HIV, can only be given to entities allowed to have it by law or allowed to have it by a release that you have signed. :

○ **Alcohol or Substance Abuse Treatment Information:**

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 protect your treatment records from disclosure without your written authorization. :

6. The Office of Mental Health's Requirements:

OMH 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 OMH collects and maintains about you. We are required to follow the terms of this notice.

This notice describes and gives some examples of the permitted ways that your health information may be used or released. Release of your information outside of the boundaries of OMH related treatment, payment, or operations, or as otherwise permitted by state or federal law, will be made only with your written authorization. You may revoke specific authorizations to release your health information, in writing, at any time. If you revoke an authorization, we will no longer release your health information to the authorized person, except to the extent that we have already used or released that information in reliance on your original authorization. You understand that we are unable to take back any

disclosures we have already made with your permission, and that we are required to retain our records of the care we have provided to you.

We reserve the right to revise this notice. We reserve the right to make the revised notice effective for health information we already have about you as well as any information we create or receive in the future. We will post a copy of the current notice in the facility and will provide a copy of our revised notice to you upon request. In addition, each time you are admitted to the facility for treatment as an inpatient or outpatient, we will offer you a copy of the current notice in effect. The notice will contain on the first page, in the top right-hand corner, the effective date.

7. For More Information or to Report a Problem:

If you believe your privacy rights have been violated, you may file a complaint with any or all of the agencies listed below. There will be no penalty or retaliation for filing a complaint:

New York State Office of Mental Health (facility) (contact name or title), (address) (phone) (fax)
Office for Civil Rights Phone: 866-OCR-PRIV (866-627-7748) or TDD 877-521-2172 886-788-4989 TTY.
Secretary of Health and Human Services 200 Independence Avenue, SW, Federal Center for Deaf and Hearing Impaired: 1-800-877-8339 Washington, D.C. 20201 Toll Free Phone: 877-696-6775

To obtain more information about OMH's privacy practices, to receive additional copies of this notice, or to receive request forms to access or amend your health information, please contact:

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