



STATE DIRECTOR'S MEMORANDUM #2009-5

TO: All Probation Directors/Commissioners and ATI Program Managers

FROM: Robert M. Maccarone, State Director *RMM*

DATE: October 1, 2009

SUBJECT: New OASAS Criminal Justice Consent Form

Due to recently enacted Drug Law Reform (DLR) and issues which often have been raised with respect to securing treatment information of offenders with existing treatment consent forms, it was determined by various state agencies that it would be helpful to develop an updated and universal criminal justice treatment consent form. The new form would be utilized within the criminal justice system to exchange client-specific information while, at the same time facilitating criminal justice research and program evaluation activities. As a result, the Division of Probation and Correctional Alternatives (DPCA), the Division of Parole (DOP), the Division of Criminal Justice Services (DCJS), and the Office of Court Administration (OCA) collaborated with the Office of Alcoholism and Substance Abuse Services (OASAS) to redesign the format and content of the OASAS criminal justice consent form. Attached is a copy of this new OASAS form which is simultaneously being distributed to treatment providers across New York State by OASAS and which will be the standard form OASAS will require that substance abuse treatment providers utilize to disclose or otherwise release treatment information of individual offenders. Accordingly, all probation departments and other correctional alternative agencies must use this new OASAS consent form and therefore should take appropriate steps to ensure its immediate usage effective October 7, 2009.

The significant changes between the prior OASAS and new OASAS criminal justice forms are as follows:

- There is added space for the client's New York State Identification Number (NYSID) to better track the offender for program and research purposes. Please ensure the NYSID is included, as applicable, in any consent form prepared by your staff. The NYSID is especially important to include on RDLR offenders. Please note that NYSID has recently been expanded to 9 digits. If your case has an 8-digit NYSID, enter a zero '0' as the first NYSID digit on the consent form.

- There is added space as to designation of referring entity type for research, and other identification purposes and lines with respect to referring entity name and address so as to facilitate timely transmittal of treatment information. For any local conditional release referral, “probation” ought to be checked. For alternative to incarceration programs, it is anticipated that one of the appropriate referring entity types noted will be designated.
- With respect to disclosure of information, there is no longer the need to complete additional information. As to type of information sought, the form now recognizes disclosure of key information concerning an offender’s current and past treatment, as well as provides significant detail as to the extent of information to be disclosed. It also includes language “including but not limited to” so to better ensure relevant information will be timely provided.
- As to purpose with respect to disclosure, again there is no longer the need to complete additional information as greater detail has been added to recognize communication related to treatment needs, activities, history, and monitoring terms and conditions of treatment, release, case management purposes, and for carrying out other official duties. Further, a new paragraph has been added with respect to research and program evaluation activities.
- There is no longer a check off section for the offender to designate the circumstances under which he/she is participating in treatment.
- As to duration and conditions with respect to consent, there is no longer space provided as to duration and conditions for revocation if different. Additionally, this section has been modified to better ensure the consent remains effective as necessary for the criminal justice system. It now states that the individual agrees that “unless otherwise specified, this consent will remain in effect and cannot be revoked until there has been a formal and effective termination or revocation of [the individual’s] release from confinement, interim probation supervision, probation, parole, post-release supervision, or local conditional release or other proceeding or determination by a releasing authority under which [the individual was] referred to or otherwise agreed to treatment.” Where the individual was under interim probation supervision and he/she subsequently receives probation and continues under treatment, the consent form remains in effect.
- There is now reference to the Health Insurance Portability and Accountability Act (HIPAA) and a “NOTE” provision which requires that any information released through this form be accompanied by an OASAS Rediscovery form (TRS-1) which is also enclosed.
- There is new language that, in general, the treatment program may not condition treatment on whether the individual signs a consent form, but that in certain limited

circumstances he/she may be denied treatment if the individual does not sign a consent form.

- There is no longer a specific line as to Parent/Guardian signature.

A copy of this memorandum as well as the OASAS forms attached herein will be available on the Probation Services Suite within eJustice and will be posted on DPCA's website.

Attachments

C: State Probation Commission Members
DPCA staff