

E-Mail Sent to Providers on 9/25/13 regarding Replacement QSOA Documents

Guidance for Using QSOA Agreement

Dear Provider,

This email and the attachments were sent out last week. The QSOA template has been modified and OASAS would like you to use this new template for all QSOA's with the Justice Center. The letter below explains what the purpose of the QSOA is. This is substantially the same email you received on Sept. 12 with the exception of the modified QSOA template. For programs who have already submitted their QSOA but have not received a fully executed agreement back from the Justice Center, please re submit your QSOA using this new attached template. I apologize for the inconvenience or confusion this may cause and I appreciate your cooperation.

As the Justice Center is now in full swing we hope you are all easily transitioning into this new state-wide incident reporting process. As you are aware, all provider staff, as mandated reporters, are now required to submit all reportable incidents directly to the Justice Center.

Currently, most providers are obtaining consent from their clients to facilitate disclosure of patient-identifying data to the Justice Center for incident reporting purposes. However, some providers are uncertain how they can effectively report incidents to the Justice Center in those situations where a patient's consent was not, or could not be secured, or where a patient has revoked their consent.

OASAS is providing the following information to assist providers in fulfilling their obligations to report to the Justice Center and cooperate in the investigations of reportable incidents, while simultaneously disclosing patient-information in accordance with the federal confidentiality law, 42 CFR Part 2.

The federal confidentiality law provides for an alternative method for the disclosure of patient-identifying information which does not require a program to obtain individual patient consent forms. Under 42 CFR Part 2, a program may enter into a qualified service organization agreement (QSOA) with any entity which provides a service for the benefit of the program's clients. Since the Justice Center function, in part, is to assist providers in recording, investigating and resolving incidents the program is required to report, a QSOA between the provider and the Justice Center is an effective and legally permissible method for providers to comply with both their obligations to report incidents and cooperate in investigations, and confidentiality protection obligations.

Attached is a QSOA template for the use of providers should they elect to utilize such an agreement to facilitate the disclosure of patient identifying information to the Justice Center. This QSOA template has been reviewed and approved for use by both OASAS and the Justice Center. A provider wishing to utilize this form only has to add provider-specific information and submit the signed and notarized QSOA to the Justice Center at the following address:

Justice Center for the Protection of People with Special Needs
161 Delaware Avenue
Delmar, NY 12054

Please also provide an email address where a fully executed electronic version of the agreement can be sent for your records.

One additional note about a provider's use of a QSOA; Although, the use of a QSOA relieves a provider from obtaining individual consent forms, both 42 CFR Part 2 and HIPAA require that programs provide notices to patients advising the patients how and under what circumstances their patient-identifying information may be disclosed. Consequently, providers who elect to utilize a QSOA should amend their patient notices to reflect the possibility of disclosure to the Justice Center.