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### Local Commissioners Memorandum

<b>Transmittal:</b>	09-OCFS-LCM-15
<b>To:</b>	Local District Commissioners
<b>Issuing Division/Office:</b>	SPPD
<b>Date:</b>	December 10, 2009
<b>Subject:</b>	<b>New York State Commission on Quality of Care and Advocacy for Persons with Disabilities (CQCAPD) IAB Reports in Connections and Confidentiality Issues</b>
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<b>Attachments:</b>	No
<b>Attachment Available Online:</b>	n/a

#### I. Purpose

The purpose of this Local Commissioners Memorandum (LCM) is to advise social services districts of the expanded use of the CONNECTIONS system by staff of the New York State Commission on Quality of Care and Advocacy for Persons with

Disabilities (CQCAPD) and of consequent confidentiality issues involved in access to materials maintained in CONNECTIONS by CQCAPD.

## **II. Background**

Pursuant to Section 422(11)(c) of the Social Services Law and Section 45.07 of the Mental Hygiene Law (MHL), investigations of reports of suspected abuse and neglect of children in residential care (IAB reports) that involve residential facilities for children operated or licensed by the New York State Office of Mental Health (OMH), New York State Office of Mental Retardation and Developmental Disabilities (OMRDD) or New York State Office of Alcoholism and Substance Abuse Services (OASAS) are conducted by CQCAPD. While the determinations of such reports have been documented in CONNECTIONS, heretofore CQCAPD has not recorded other case information in CONNECTIONS.

As a result of discussions between OCFS and CQCAPD on this issue, as of December 1, 2009, CQCAPD has begun to expand its use of CONNECTIONS for case recording purposes for IAB reports investigated by CQCAPD. As a result, CQCAPD is including in CONNECTIONS the progress notes from IAB investigations.

This creates a potential confidentiality issue, as the IAB investigations conducted by CQCAPD often involve information that is confidential pursuant to provisions of the MHL. Sections 19.09(c), 19.17(g), 33.13 and 45.09 of the MHL provide for the confidentiality of records of persons receiving services from OASAS, OMH and OMRDD, and those statutes do not afford staff of social services districts access to such information. However, on and after December 1, 2009, such information will begin to be included in case records maintained by CQCAPD in CONNECTIONS.

## **III. Program Implications**

OCFS will be working on making changes to CONNECTIONS to restrict access to the CQCAPD IAB case records. Until such time as that change can be made to the system, OCFS is hereby directing that no staff may access or otherwise review any progress notes in IAB case records maintained in CONNECTIONS for cases investigated by CQCAPD. As has been current practice, appropriate staff may access certain information from records investigated by CQCAPD under the following circumstances:

1. If the social services district receives a report from the Statewide Central Register of Child Abuse and Maltreatment (SCR), and the subject of the report was also the subject of an IAB report investigated by CQCAPD, the CPS staff may only review the report to the SCR and the determination in the case. No other portion of the case record may be reviewed.

2. Where an IAB case investigated by CQCAPD involves a child in the custody of a social services district, the LDSS Case Manager overseeing the foster care case may review only the report to the SCR and the determination in the case. No other portion of the case record may be reviewed.

With social services districts following these instructions, CQCAPD will be able to expand its use of CONNECTIONS to include case documentation while appropriately maintaining the confidentiality of information in their case records that the MHL requires.

Section 422(12) of the Social Services Law sets forth a criminal penalty for the willful permitting or encouragement of the release of confidential information to any person or agency not authorized to have access as it pertains to the specific instructions in this LCM.

#### **IV. Effective Date**

As stated above, as of December 1, 2009, CQCAPD has begun to expand its use of CONNECTIONS for case recording purposes for IAB reports investigated by CQCAPD.

*/s/ Nancy W. Martinez*

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**Issued By:**

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Director

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