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 | INFORMATIONAL LETTER |
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TRANSMITTAL: 92 INF-54

TO: Commissioners of
 Social Services

DIVISION: Services and
 Community
 Development

DATE: December 14, 1992

SUBJECT: Protective Services for Adults (PSA): Access to
 Hospital Records for the Purpose of Conducting PSA
 Investigations on Behalf of Persons Referred by
 General Hospitals

SUGGESTED

DISTRIBUTION: Directors of Services
 Adult Services Staff
 Agency Attorneys
 Staff Development Coordinators

CONTACT PERSON: Any questions concerning this release should be
 directed to your district's Adult Services
 Representative at 1-800-342-3715 as follows:
 Thomas Burton ext. 432-2987
 Kathleen Crowe ext. 432-2996
 Michael Monahan ext. 432-2667
 Janet Morrissey ext. 432-2864, or
 Irvin Abelman at 1-800-554-5391

ATTACHMENTS: None

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
92 INF-26		303 357 403 457	Section 136 & Article 9B SSL Article 27- F of the Public Health Law		Part 405 of Department of Health Regulations (10 NYCRR)

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The purpose of this release is to inform local social services districts of a recent legal opinion from the New York State Department of Health (DOH) regarding the authority of a general hospital to provide access to a patient's medical records for the purpose of evaluating the need for Protective Services for Adults (PSA) when that patient was referred to PSA by the hospital.

Some local social services districts have encountered difficulty in obtaining hospital records for the purpose of conducting PSA investigations in situations in which the hospitals themselves made the referrals to PSA. In response to this problem, the Department contacted DOH and requested a legal opinion authorizing information sharing by hospitals in order for districts to assess the need of these patients for PSA. We have recently been advised by DOH that access to medical records can be provided to PSA staff, based on the following provisions of Public Health Law, Social Services Law, DOH regulations, and Department regulations.

Section 405.10(a)(5) of the DOH regulations (10 NYCRR) requires hospitals to ensure the confidentiality of patient records and permits the release of original medical records and information from or copies of records only to hospital staff involved in treating the patient or to individuals as permitted by Federal and State laws. Article 9-B of the Social Services Law (SSL) authorizes social services officials to receive and investigate reports of individuals who may be in need of protection; arrange for medical and psychiatric services to evaluate, safeguard and improve the circumstances of persons with serious impairments; and obtain court ordered access to those persons believed to be in need of PSA if they are refused access. Section 473(2)(a) SSL recognizes that the effective delivery of PSA requires a network of professional consultants and service providers and requires local social services districts to plan with other public, private and voluntary agencies, including health agencies, for the purpose of assuring maximum local understanding, coordination and cooperative action in the provision of appropriate services. Part 357 of the Department's regulations sets forth the requirements for safeguarding confidential information; additional guidance with regard to PSA clients was provided in 92 INF-26.

Given the purpose of the PSA statute and the confidentiality protections accorded medical records by PSA, DOH accepts Article 9-B SSL as sufficient statutory authority to allow PSA staff access under Section 405.10 of DOH regulations to those parts of the medical records of a hospital patient referred to PSA by the hospital that are not otherwise made confidential by statute. Additionally, Sections 303.7 and 403.9 of the Department's regulations satisfy the mandate of Article 27-F of the Public Health Law (PHL) with regard to confidential HIV related information, thereby permitting the disclosure of confidential HIV related information to a PSA staff person.

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The Department expects that this interpretation, which has been provided by the Department of Health, will make it easier for local social services districts to gain access to medical records in order to conduct PSA assessments of patients referred to PSA by hospitals. However, in order to assure the confidentiality of medical information which has been requested from a hospital, we recommend that PSA staff review the provisions of 92 INF-26 as well as the information in this transmittal.

Peter R. Brest
Associate Commissioner
Office of Housing and Adult Services