Legal Aspects of Protective Services for Adults
Update 2014

Wednesday, March 19, 2014

Handout Materials

New York State
Office of
Children & Family Services

New York State
Office of Children and Family Services
and
PDP Distance Learning Project
LEGAL ASPECTS
OF PSA
2014 UPDATE

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SUNY Distance Learning Project

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Interagency Guidance on Privacy Laws and Reporting Financial Abuse of Older Adults – Issued on 9/24/2013 on “safe harbors” in federal privacy laws. The Board of Governors of the Federal Reserve System (Federal Reserve), Commodity Futures Trading Commission (CFTC), Consumer Financial Protection Bureau (CFPB), Federal Deposit Insurance Corporation (FDIC), Federal Trade Commission (FTC), National Credit Union Administration (NCUA), Office of the Comptroller of the Currency (OCC), and Securities and Exchange Commission (SEC) issued this guidance to financial institutions to clarify the applicability of privacy provisions of the Gramm-Leach-Bliley Act (GLBA) to reporting suspected financial exploitation of older adults that include provisions that permit financial institutions to report customer information to PSA and law enforcement where financial exploitation is suspected.

Specifically the Guidelines state:

Financial institutions can play a key role in preventing and detecting elder financial exploitation. A financial institution’s familiarity with older adults it encounters may enable it to spot irregular transactions, account activity, or behavior. Prompt reporting of suspected financial exploitation to adult protective services, law enforcement, and/or long-term care ombudsmen can trigger appropriate intervention, prevention of financial losses, and other remedies.
N.Y. State Legislation – Chapter Laws of 2013

Abuse/Domestic Violence

CHAPTER 7 (A196) Effective 3/15/13
Amends §§730.40, 730.60 & 730.50, Criminal Procedure Law; amends §29.11, Mental Hygiene Law. Relates to orders of observation for the purpose of determining incapacitation.

CHAPTER 202 (A6381-A) Effective 07/31/2013
Amends §91, Public Service Law; amends §399-yy, General Business Law. Relates to providing new telephone numbers without charge for certain victims of domestic violence.

CHAPTER 205 (A6554) Effective 07/31/2013
Amends §3103, Civil Practice Law & Rules. Prevents abuse during discovery.

CHAPTER 261 (S4344) Effective 08/31/13
Amends §621, Executive Law. Defines and establishes the extent of relocation expenses for crime victim awards.

CHAPTER 395 (S3802) Effective 10/21/13
Amends §33.25, Mental Hygiene Law. Relates to the release of mental hygiene records pertaining to allegations and investigations of abuse or mistreatment.

CHAPTER 480 (A6547-B) Effective 11/13/13
The effective date shall apply to all orders of protection regardless of when such orders are issued, except for sections of the bill that require addition of a notice on the order of protection, which sections shall be effective on the sixtieth day after the act becomes law and shall apply to orders issued on or after such effective date.
Amends §§240 & 252, Domestic Relations Law; amends §§155, 168, 446, 551, 656, 759, 842, 846 & 1056, Family Court Act; amends §§140.10 & 530.12, Criminal Procedure Law. Provides that communications or contact between protected parties with a party against whom an order of protection or temporary order of protection is issued shall not affect the validity of such order; requires notice thereof to be included in such orders; prohibits protected parties from being held to have violated an order of protection or a temporary order of protection.

CHAPTER 526 (A7400) Effective 12/18/13
Amends §§812, 821, 446, 551, 656, 842 & 1056, Family Court Act; amends §§240 & 252, Domestic Relations Law; amends §§530.11 & 530.12, Criminal Procedure Law. Adds identity theft, larceny and coercion to those offenses over which criminal and family courts have concurrent jurisdiction when involving family or household members; authorizes a court which issues an order of protection to order the respondent to return certain documents, and credit and debit devices to the protected party.
Health Care

CHAPTER 352 (A7500-A) Effective 09/27/13
Adds §4148, amends §§4100-a, 4140, 4141-a, 4142, 4144, 4161 & 4171, Public Health Law. Establishes the electronic death registration system for collecting, storing, recording, transmitting, amending, correcting and authenticating information relating to deaths occurring in the state.

CHAPTER 397 (S3926-A) Effective 10/21/13
Adds §2805-w, Public Health Law. Requires general hospitals to provide notice to patients placed in observation services and explain the implications thereof.

Protective Services for Adults

CHAPTER 408 (S5324-A) Effective 10/21/13

Vulnerable Populations

CHAPTER 83 (A7904) Effective 6/30/13
This bill would take effect on the same day and in the same manner as the Protection of People with Special Needs Act (Chapter 501 of the laws of 2012) takes effect. This law amends §31.35, Mental Hygiene Law; amends §§488 & 378-a, Social Service Law and makes technical corrections to provisions of law relating to the protection of people with special needs.

CHAPTER 349 (A6692-C) Effective 9/27/13
Appropriates money to the office for people with developmental disabilities for the funding of various programs.

CHAPTER 427 (A857) Effective 4/23/14
Adds Article 83 §§83.01 - 83.45, amends §81.18, Mental Hygiene Law; amends §1758, Surrogates Court Procedure Act. Enacts the Uniform Guardianship and Protective Proceedings Jurisdiction Act. This law provides procedural and jurisdictional direction for interstate guardianships under both Article 81 of the Mental Hygiene Law and Article 17-A of the Surrogate’s Court Procedure Act.

CHAPTER 492 (S2093) Effective 11/13/13
Amd §215, Eld L. Requires the director of the Office of the Aging to develop materials for employees and volunteers relating to elder abuse awareness in social adult day services programs.
Miscellaneous

CHAPTER 1 (S2230) Effective 3/16/13
Amends numerous laws to enact the NY Secure Ammunition and Firearms Enforcement (SAFE) Act of 2013. For PSA purposes, the law impacts on sections of the Mental Hygiene Law focusing on the mentally ill and firearms. Amends §§7.09, 9.47, 9.48, 9.60, 13.09 & 33.13, adds §9.46, Mental Hygiene Law;

CHAPTER 270 (S4728-A) Effective 4/31/14
Amends §111-b, Social Service Law; amends §§5241 & 5242, Criminal Procedure Law. Relates to income withholding for child support.
Chapter 526 – Family Offense Amendment

CHAPTER 526 (A7400) Effective 12/18/13
Amends §§812, 821, 446, 551, 656, 842 & 1056, Family Court Act; amends §§240 & 252, Domestic Relations Law; amends §§530.11 & 530.12, Criminal Procedure Law. Adds identity theft, larceny and coercion to those offenses over which criminal and family courts have concurrent jurisdiction when involving family or household members; authorizes a court which issues an order of protection to order the respondent to return certain documents, and credit and debit devices to the protected party.

Family Court Act

The family court and the criminal courts shall have concurrent jurisdiction over any proceeding concerning acts which would constitute disorderly conduct, harassment in the first degree, harassment in the second degree, aggravated harassment in the second degree, sexual misconduct, forcible touching, sexual abuse in the third degree, sexual abuse in the second degree as set forth in subdivision one of section 130.60 of the penal law, stalking in the first degree, stalking in the second degree, stalking in the third degree, stalking in the fourth degree, criminal mischief, menacing in the second degree, menacing in the third degree, reckless endangerment, criminal obstruction of breathing or blood circulation, strangulation in the second degree, strangulation in the first degree, assault in the second degree, assault in the third degree, an attempted assault, identity theft in the first degree, identity theft in the second degree, identity theft in the third degree, grand larceny in the fourth degree, grand larceny in the third degree or coercion in the second degree as set forth in subdivisions one, two and three of section 135.60 of the penal law between spouses or former spouses, or between parent and child or between members of the same family or household except that if the respondent would not be criminally responsible by reason of age pursuant to section 30.00 of the penal law, then the family court shall have exclusive jurisdiction over such proceeding. Notwithstanding a complainant's election to proceed in family court, the criminal court shall not be divested of jurisdiction to hear a family offense proceeding pursuant to this section. In any proceeding pursuant to this article, a court shall not deny an order of protection, or dismiss a petition, solely on the basis that the acts or events alleged are not relatively contemporaneous with the date of the petition, the conclusion of the fact-finding or the conclusion of the dispositional hearing.
PURPOSE OF BILL: Chapter 427 (BILL NUMBER: A857)

The bill addresses the issue of jurisdiction over adult guardianships & other protective proceedings, providing a mechanism for resolving multi-state jurisdictional disputes.

SUMMARY OF PROVISIONS OF BILL: Section 1 of the bill adds a new article 83 to the Mental Hygiene Law (MHL) to provide for the Uniform Guardianship and Protective Proceedings Jurisdiction Act.

MHL S 83.01 sets forth a short title of article 83 of the mental hygiene law as the Uniform Guardianship and Protective Proceedings Jurisdiction Act.

MHL S 83.03 is the definition section for terms used in the Uniform Guardianship and Protective Proceedings Jurisdiction Act.

MHL S 83.05 provides a framework for honoring the guardianship orders of other countries.

MHL S 83.07 provides a framework for communication between courts in different states concerning a guardianship proceeding.

MHL S 83.09 outlines procedures for cooperation between courts in different states.

MHL S 83.11 outlines acceptable methods for a court in this state to obtain testimony from a witness located in another state.

MHL S 83.13 provides the factors a court may use to determine whether a respondent has a significant connection with a particular state for purposes of establishing jurisdiction.

MHL S 83.15 provides that this article, subject to section 81.18 of the mental hygiene law, forms the exclusive jurisdictional basis for a New York State court to appoint a guardian or issue a protective order for an adult.

MHL S 83.17 defines a three-level priority system for a New York State court to establish jurisdiction to appoint a guardian of a person or issue a protective order.

MHL S 83.19 outlines the special circumstances where, regardless of whether a New York State court has jurisdiction under the general jurisdiction principles outlined in S 83.09, a court may appoint a guardian or issue a protective order.

MHL S 83.21 provides that a New York State court that has appointed a
guardian or issued a protective order under this Act has continuing and exclusive jurisdiction until the proceeding is terminated or the appointment expires.

MHL S 83.23 authorizes a New York State court to decline jurisdiction if it determines that the court of another state is a more appropriate forum, and specifies the factors to be taken into account in making this determination.

MHL S 83.25 authorizes a New York State court to decline jurisdiction or create another appropriate remedy if jurisdiction was acquired due to unjustifiable conduct.

MHL S 83.27 provides special notice requirements if a proceeding is brought in a state other than the respondent's home state.

MHL S 83.29 specifies a procedure for resolving jurisdictional issues if petitions are pending in more than one state.

MHL S 83.31 specifies a procedure for transferring a guardianship to another state. To make the transfer, court orders are necessary from both the New York State court transferring the case and from the out of state court accepting the case.

MHL.S 83.33 outlines a procedure for a New York State court to accept a guardianship proceeding transferred from another state.

MHL S 83.35 provides a procedure for a guardian appointed in another state to register the out-of-state guardianship judgment in a New York State court.

MHL S 83.37 provides a procedure for a guardian appointed in another state to register a protective order from an out-of-state court in a New York State court.

MHL S 83.39 outlines that upon registration of an out-of-state guardianship or protective order, the guardian may exercise all powers authorized in the order except as prohibited by the laws of New York State.

MHL S 83.41 provides language to encourage uniformity in the application and construction of the Uniform Guardianship and Protective Proceedings Jurisdiction Act.

MHL S 83.43 provides for relation to electronic signatures in global and national commerce act.

MHL S 83.45 provides for transitional provisions.

Section 2 amends the surrogate's court procedure act section 1758 to reflect the addition of article 83 to the mental hygiene law.

Section 3 amends the mental hygiene law section 81.18 to allow a New York State court to use provisions of article 83 of the mental hygiene law when dealing with a foreign guardian not present in New York State.
Uniform Guardianship and Protective Proceedings Jurisdiction Act
Amendments

Mental Hygiene Law Article 81 Amendment

* § 81.18 Foreign guardian for a person not present in the state.
Where the person alleged to be incapacitated is not present in the state and a guardian, by whatever name designated, has been duly appointed pursuant to the laws of any other state, territory, or country where the person alleged to be incapacitated resides to assist such person in property management, the court in its discretion, may make an order appointing the foreign guardian as a guardian under this article with powers with respect to property management within this state on the foreign guardian's giving such security as the court deems proper.

* NB Effective until April 21, 2014

* § 81.18 Foreign guardian for a person not present in the state.
Where the person alleged to be incapacitated is not present in the state and a guardian, by whatever name designated, has been duly appointed pursuant to the laws of any other country where the person alleged to be incapacitated resides to assist such person in property management, the court in its discretion, may make an order appointing the foreign guardian as a guardian under this article with powers with respect to property management within this state on the foreign guardian's giving such security as the court deems proper. In its discretion, the court may utilize the provisions of article eighty-three of this title.

* NB Effective April 21, 2014

Surrogate's Court Procedure ACT Amendment

* § 1758. Court jurisdiction
After the appointment of a guardian, standby guardian or alternate guardians, the court shall have and retain general jurisdiction over the mentally retarded or developmentally disabled person for whom such guardian shall have been appointed, to take of its own motion or to entertain and adjudicate such steps and proceedings relating to such guardian, standby, or alternate guardianship as may be deemed necessary or proper for the welfare of such mentally retarded or developmentally disabled person.

* NB Effective until April 21, 2014

* § 1758. Court jurisdiction
  1. The jurisdiction of the court to hear proceedings pursuant to this article shall be subject to article eighty-three of the mental hygiene law.
  2. After the appointment of a guardian, standby guardian or alternate guardians, the court shall have and retain general jurisdiction over the mentally retarded or developmentally disabled person for whom such guardian shall have been appointed, to take of its own motion or to entertain and adjudicate such steps and proceedings relating to such guardian, standby, or alternate guardianship as may be deemed necessary or proper for the welfare of such mentally retarded or developmentally disabled person.

* NB Effective April 21, 201
NY Secure Ammunition and Firearms Enforcement (SAFE) Act

CHAPTER 1 (S2230) Effective 3/16/13
Enacts the NY Secure Ammunition and Firearms Enforcement (SAFE) Act of 2013. For PSA purposes, the law impacts on sections of the Mental Hygiene Law focusing on the mentally ill and firearms. Amends §§7.09, 9.47, 9.48, 9.60, 13.09 & 33.13, adds §9.46, Mental Hygiene Law;

§ 9.46 Reports of substantial risk or threat of harm by mental health professionals.

(a) For purposes of this section, the term "mental health professional" shall include a physician, psychologist, registered nurse or licensed clinical social worker.

(b) Notwithstanding any other law to the contrary, when a mental health professional currently providing treatment services to a person determines, in the exercise of reasonable professional judgment, that such person is likely to engage in conduct that would result in serious harm to self or others, he or she shall be required to report, as soon as practicable, to the director of community services, or the director's designee, who shall report to the division of criminal justice services whenever he or she agrees that the person is likely to engage in such conduct. Information transmitted to the division of criminal justice services shall be limited to names and other non-clinical identifying information, which may only be used for determining whether a license issued pursuant to section 400.00 of the penal law should be suspended or revoked, or for determining whether a person is ineligible for a license issued pursuant to section 400.00 of the penal law, or is no longer permitted under state or federal law to possess a firearm.

(c) Nothing in this section shall be construed to require a mental health professional to take any action which, in the exercise of reasonable professional judgment, would endanger such mental health professional or increase the danger to a potential victim or victims.

(d) The decision of a mental health professional to disclose or not to disclose in accordance with this section, when made reasonably and in good faith, shall not be the basis for any civil or criminal liability of such mental health professional.
Cases of Interest

Assisted Out-patient Treatment Order—Article 9 Mental Hygiene Law

In the Matter of Yuri M. (Anonymous), appellant, and Adam Karpati, etc., respondent.

In a proceeding pursuant to Mental Hygiene Law §§ 9.35 and 9.60(m) for a rehearing and review of an assisted outpatient treatment order (AOT order) and judgment of the Supreme Court, Kings County, dated November 30, 2011, which, upon a finding that Yuri M. was in need of continued assisted outpatient treatment, directed him to comply with a program of assisted outpatient treatment until December 7, 2012, Yuri M. appeals from an order of the same court, dated June 19, 2012, which, after a jury trial, directed that the order dated November 30, 2011, remain in full force and effect. Here, the AOT order, dated November 30, 2011, expired by its own terms on December 7, 2012. As a result, Yuri M.’s appeal from the order dated June 19, 2012, which sought the review of the AOT order, was rendered moot. Contrary to the appellant’s contentions, this matter did not warrant the invocation of the exception to the mootness doctrine. The appeal was dismissed as academic, without costs or disbursements.

Power of Attorney—General Obligations Law Sections 15-1501 to 5-1514

Article 81 or Power Of Attorney?


Court declined to order appointment of a limited guardianship to petitioner, who lived outside the United States and was already the AIP’s attorney-in-fact handling his financial affairs. Petitioner was applying for the limited guardianship solely because one of the banks with which he had to do business would not accept the power of attorney. The court held that guardianship is a remedy of last resort and the AIP had already made arrangements for his incapacity by executing the power of attorney and all financial institutions except for one were honoring it. The court also expressed concern that since the petitioner lived in Canada the court could not exercise jurisdiction over him for enforcement purposes without complying with procedures set forth in various international conventions and treaties and thus his appointment would create practical problems and increase the cost of enforcement. Further there was a co-guardian who could incur liability for any acts or omissions by the foreign guardian.

In the Matter of Samuel S. (Anonymous), et al., appellants; Helene S. (Anonymous), respondent.

The Appellate Division ruled the trial court properly granted the sister's motion for judgment as a matter of law dismissing the petition at the close of the brother's case. Although the evidence demonstrated that the AIP was incapacitated, the brother failed to establish that a guardian was needed to provide for the AIP's person or property, as advance directives (a power of attorney and health care proxy given to the sister) were already in place and, as implemented by the sister, provided the AIP with a high quality of comprehensive medical care and provided for the management of...
his personal and property needs. The court affirmed the order of the trial court and remitted the matter to the trial court for a hearing on the reasonable amount of fees to be awarded to the court evaluator and the psychiatrist.

**POA Special Proceeding**


Petitioner and respondent are siblings and the only children of their mother (the Principal), a 92-year old widow. Petitioner commenced this special proceeding, pursuant to CPLR Article 4 and GOL §5-1510, seeking to remove respondent as agent under certain powers of attorney executed by the Principal on November 7, 2007. The main charge of the petition being respondent breached her fiduciary duties under the powers of attorney by taking certain actions that were not in the Principal's best interest such as making extravagant gifts of the Principal's property to herself, her children, and friends. Petitioner also points to other alleged conduct by his sister, which demonstrates a scheme to change the Principal's testamentary documents in her favor and removing Petitioner’s name from these documents. Petitioner states that in light of respondent's actions, he made a written request for records of all receipts, disbursements, and transactions entered into by respondent as agent for the Principal according to GOL §5-1505. Respondent reportedly declined the request, and this special proceeding ensued.

The petition sought (1) to remove respondent as agent for the Principal under the powers of attorney; (2) to compel respondent to produce a record of all receipts, disbursements, and transactions entered into as agent for the principal; (3) to invoke petitioner's powers as successor agent under the powers of attorney; and (4) for injunctive relief pending the resolution of this special proceeding. Petitioner moved for a preliminary injunction and temporary restraining order enjoining respondent from acting as agent for the Principal under the powers of attorney pending the outcome of this special proceeding.

The court discussed extensively the fiduciary duty of an agent under GOL §5-1505 including:

1. To act according to any instructions from the principal or, where there are no instructions, in the best interest of the principal and to avoid conflicts of interest.
2. To keep the principal's property separate and distinct from any other property owned or controlled by the agent. The agent may not transfer the principal's property to himself or herself without specific authorization.
3. To keep a record of all receipts, disbursements, and transactions entered into by the agent on behalf of the principal ...

(General Obligations Law §5-1505(2)).

The court concluded the petition sufficiently alleged a claim under GOL §5-1510 concerning the validity of the November 7, 2007 powers of attorney in favor of the petitioner and enjoined the respondent from: (1) acting as agent for the principal under New York and Florida powers of attorney executed on November 7, 2007; and (2) withholding records of all receipts, disbursements, and transactions entered into as agent for the principal;

NYS Law Revision Report on Powers of Attorney (1/1/12)
http://www.lawrevision.state.ny.us/PowersofAttorneyFinalReportJanuary12012.pdf
Article 81 Mental Hygiene Law

Consent to Appointment of Guardian


"A consent guardianship is created on the basis of the individual's agreement thereto and its does not morph into a non-consent guardianship with its inherent finding of incapacity because an emergency occurs and an expansion of powers becomes necessary."

A court determining a person's capacity to agree to a guardianship will generally consider: the individual’s ability to meaningfully interact and converse with the court; his or her understanding of the nature of the proceeding; and his or her comprehension of the personal and property management powers being relinquished. The inquiry by the court to determine whether an individual has the capacity to consent is not the equivalent of the in-depth examination which occurs in a full hearing to determine incapacity where in the person's ability to understand and appreciate the nature and consequences of their functional limitations is explored and determined. Therefore, where the original guardianship was made upon consent to the AIP, the guardian was prohibited from seeking to expand his powers pursuant to MHL 81.36 over the objection of the ward and was required to file a new application for guardianship and prove the need for a guardian and incapacity before the court could expand his powers.

*Matter of L.J.L., 39 Misc3d 1224(A); 2013 N.Y. Misc LEXIS 1949; 20 (Sup Ct, Bronx Cty.) (Hunter, J.)

After a hearing, the court found that the AIP possessed capacity to consent to the appointment of a special guardian for a period of one year, rejecting the recommendation of the Court Evaluator that the AIP lacked such capacity because she was in need of in-patient detoxification and rehabilitation. The court based its conclusion on its finding that the AIP “was able to clearly voice her opinion and articulate the reasons why she consented to the guardianship”.

Where all parties with the exception of the Court Evaluator, unequivocally stated that the AIP has the capacity to consent to the guardianship, the Court allowed the AIP to consent to a guardianship of one year duration. The court looked to the legislative intent of Art 81 to take into account the personal wishes, preferences and desires of the AIP and afford the person the greatest amount of independence and self-determination and participation in all the decisions affecting his/her life. The Court noted that it understood the Court Evaluator's concerns as to the AIP’s health, well-being, and purported need for inpatient rehabilitation and detoxification, but found that the evidence demonstrated that the AIP had the capacity to consent to the guardianship because she was able to clearly voice her opinion and articulate the reasons why she consented to the guardianship.

Presence of AIP


Appellate Division reversed an order and judgment appointing a guardian, on the law, and returned the case back to the Supreme Court for a new hearing on the petition, finding that the court erred in conducting the hearing in the AIP’s absence where there was no evidence establishing that the AIP was unable to be present in court, that she was completely unable to participate in the hearing, or that no meaningful participation would result from her presence. The Appellate Division further criticized the Supreme Court’s failure to set forth in its order and judgment a sufficient factual basis for conducting the hearing without the AIP present.
Voiding questionable marriages and other contracts

*Matter of Doar (L.S.), 39 Misc. 3d 1242A; 2013 N.Y. Misc. LEXIS 2560 (Sup. Ct., Kings Cty.) (Barrow, J.)

Upon a petition brought by APS, the court appoints JASA as guardian of the person and property of an 83 year-old WWII veteran with dementia, who had recently revoked a POA issued to a longtime friend, and had married his 46 year-old former home health aide. The court empowered JASA to, inter alia, investigate the IP’s financial affairs and bring any appropriate actions on behalf of the IP including a turnover proceeding and/or a motion to annul or void the marriage. The court, noting that “[s]adly this case is not an isolated incident of financial exploitation of the incapacitated,” urges the community to develop and implement new strategies to protect its “most vulnerable adults,” “seniors affected with dementia, in the twilight phase between capacity and incapacity” including a requirement that financial institutions, health care providers, licensed home care providers, banks, hospitals, doctors and designated agents report suspected abuse to APS and law enforcement.

Proper guardians


The Appellate Division found that the record plainly indicated that a strong dissension existed between the AIP and the petitioner, her daughter, and thus held that the trial court had not improvidently exercised its discretion in failing to appoint the petitioner as a co-guardian of the person of the AIP.


Although the Court ultimately concluded that the AIP had alternative resources and did not need a guardian at all, the court noted that it would have declined to appoint the petitioner, AIP’s son and foreign guardian in Egypt, as the New York guardian due to: his long contentious relationship with his stepmother, AIP’s wife; his disdain for her refusal to wear a veil; his relentless pursuit to divest her of any of his father’s estate; his interference with her efforts to care for the AIP; the Court Evaluator’s assessment that the AIP’s expressed desire was to have his wife be his health care agent and attorney-in-fact; and the son’s own financial bankruptcy which made him ineligible for appointment.

Guardianship Account Extraordinary Expenses


The applications by co-guardian parents of their daughter, an infant adjudicated to be an incapacitated person pursuant to Mental Hygiene Law Section 81.02(b), for an order (1) permitting the guardians to reimburse to themselves, in their capacity as parents, from the guardianship account for all of the costs associated with a bat mitzvah party and (2) authorizing the expenditure from the guardianship account to cover the vacation cost for the entire family and an aide, was granted. These applications presented issues of first impression which sought the withdrawal of funds from bank accounts held in trust for infants. Mental Hygiene Law Article 81 does not distinguish between infants and adults, nor does it set forth the factors that the Court must consider in determining whether monies may be withdrawn from an infant or adult guardianship account for extraordinary expenses. This case is an excellent examination of these issues in the context of article 81.
Death of AIP

*Estate of Buchwald, 38 Misc.3d 1225A; 967 N.Y.S.2d 865; 2013 N.Y. Misc. LEXIS 717 (Surr. Ct., Queens Cty. 2013) (Surr. Kelly)
Guardian may not marshal assets or carry out the duties set forth in the appointing order after the IP had died except for certain statutorily approved actions relating to the IP’s death and must notify the necessary parties of the death of the IP as required by MHL 81.44. Any such actions would no longer be for the benefit of the IP.

*Matter of Vita V. (Cara V.), 100 AD3d 913; 954 N.Y.S. 2d 582; 2012 NY App. Div. LEXIS 7976 (2nd Dept., 2012)
In a guardianship proceeding where the guardian of the person petitioned pursuant to MHL § 81.43 to recover property withheld from the IP’s estate, and where, two days after the conclusion of the trial, the IP died, but the Supreme Court nevertheless entered a money judgment in favor of the guardian, in her capacity as guardian. The Appellate Division noted that the Supreme Court should have granted the appellant’s motion to vacate the judgment, citing MHL §81.36 (a)(3) and noting that following the IP’s death, the guardian was without authority to continue to represent the IP’s person and property, in the absence of a further order from the court modifying her authority to allow for the representation of the IP’s estate in the proceeding.

The decedent was the recipient of a Ten Million Dollar structured settlement for birth injuries. She was subsequently found to be incapacitated in a proceeding brought pursuant to Mental Hygiene Law Article 81. The probate of the will was challenged alleging lack of testamentary capacity and undue influence at the time the will was signed. This decision clearly delineates between a finding of incapacity under Article 81 and lack of testamentary capacity and the factors needed for both determinations. The allegation of undue influence leaves the burden of proof with the party objecting. To meet this burden, there must be proof of motive, opportunity and the actual exercise of undue influence tantamount to a moral coercion which restrained independent action and destroyed free will.

The evidence presented did not prove the allegations and therefore both objections to probate were dismissed.
Article 17-A Surrogate Court Procedure Act-Guardianship

Health Care Decisions


When a profoundly mentally retarded adult, who resided in an Office of Persons With Developmental Disabilities (OPWDD) licensed facility, was admitted to respondent hospital for treatment of a fever and dehydration, evaluation revealed that he could no longer tolerate food or liquid by mouth, that intravenous feeding was inadequate to meet his nutritional needs, and that, unless he received nutrition and hydration through a feeding tube, he would die within a short period of time. Upon receiving notice of the parents' decision to withhold the feeding tube and the hospital's intention to implement that decision, OPWDD objected and commenced the instant proceeding. The appellate court reversed the trial court’s decision to allow the withholding of such life saving measures holding that the hospital had failed to meet the requirements of § 1750-b(1), (4)(b)(iii)(B) by showing that the insertion of a feeding tube would impose an extraordinary burden on the patient. The Court found insufficient to establish extraordinary burden the combined situation including assertions that: (a) this individual would encounter difficulty when he is moved to a new facility; (b) will need restraints to prevent him from removing the feeding tube; (c) will continue to be at risk of aspiration; (d) may suffer potential complications arising from the feeding tube; (e) may experience painful and unpleasant measures such as deep suctioning and restraints, (f) could be at risk for peritonitis and (g) would continue to suffer from progression of his spinal curvature, which will ultimately obstruct his breathing and cause his death. OPWDD’s witnesses, a registered nurse and physician who had been providing care to the individual for the past 15 years testified that he is alert, awake, and communicative, and that he enjoys social interaction and activities. The physician concluded that there was no medical justification for the guardians' decision to withhold life-sustaining care, that his patient was an excellent candidate for insertion of a feeding tube, and that, if the procedure is performed, he has "an excellent prognosis with many years of life." Moreover, based in part upon their experience with this patient, they also testified that the potentially deleterious consequences of the use of a feeding tube could be mitigated or eliminated.

Applicability of Art 81 standards to 17-A


Relying on the Due Process clause of the 14th amendment of the US Constitution and the Supremacy Clause in conjunction with the UN General Assembly's adoption of the Convention and Optional Protocol on the Rights of Persons with Disabilities, the Surrogate of NY County held that SCPA 17-A does not meet constitutional standards due to the lack of a periodic reporting requirement for guardians of the person. The Surrogate's rationale was that without such reporting the court cannot ascertain whether the deprivation of liberty resulting from guardianship is still justified by the ward’s disabilities or whether the ward has progressed to a level where he can live and function on his own as a result of the services and educational opportunities provided during the preceding period of the guardianship. The court also cannot know whether the guardian is still fulfilling his fiduciary role to the ward and cannot effectively monitor the ward who is then the court's responsibility. The Surrogate further reasoned that requiring such reporting would not add a huge administrative burden since SCPA Art 17 and SCPA Art 17-A already require and there is already a process in place for submission of and review of annual financial accountings. This reporting in guardianships of the person is already required under MHL Article 81.
Accordingly, the Surrogate of NY County held that in NY County, going forward, SCPA would be read to require yearly reporting and review and that effective as of the date of this decision all new personal 17-A guardianships in NY County will be subject to a reporting requirement that guardians answer a yearly questionnaire generated by the court, unless the appointing order requires additional information which shall be supplied in accordance with that order.

**Burden and Standard of Proof**


The Surrogate denied the petition for 17-A guardianships over the petitioner’s two adult sons, stating that the petitioner failed to profer evidence regarding the elder son’s purported diagnosis with Asperger’s syndrome and/or obsessive compulsive disorder, or the younger son’s purported diagnosis of autism. The Surrogate further held that the establishment of a plenary guardianship, which she characterized as a “wholesale surrender” of personal autonomy and property, was neither necessary nor in the sons’ best interests, noting, inter alia, that the sons lived unsupervised in the family home for extended periods of time, and credited their testimony regarding their daily activities, their independence of self-care, their use of public transportation, and their ability to seek and obtain necessary medical care.

**Best interests strategies**


The father of a mildly mentally retarded autistic young man has physical custody and the mother had only visitation rights under a Family Court custody order issued when their son was a minor. Upon their son’s turning 18, the mother petitioned and the father cross-petitioned for 17-A guardianship. The Surrogate appointed the father and continued visitation to the mother finding that appointing the father was in the proposed ward’s best interest because: the son had been living with his father for the past 10 years and continuing this arrangement provided stability; the mother had not shown sufficient change in circumstances in that she frequently failed to visit; was minimally engaged with her son's teachers and caregivers; had no firsthand knowledge of his living arrangements; had difficulty coping with her son's behaviors; he often returned from visits to her disheveled and agitated; she threatened to have her son arrested or committed, the father was working toward placing his son in a day program whereas the mother's only plan was to try to place him in a residential program nearer to her home; and the mother was unable to accept the findings and concerns of others about her son.

In a 17-A proceeding the Surrogate may not give res judicata effect to a prior Family Court custody and visitation order issued when the respondent was a minor thus a hearing is required. Surrogate's Court has jurisdiction to: (1) issue a visitation order in a 17-A proceeding and (2) appoint a monitor or impose reporting requirements upon a 17-A guardian.

**Note:** * These case descriptions were taken from the “Guardianship Collected Cases” for Article 81 and Article 17-A compiled by the NYS Mental Hygiene legal Services and used with their permission. [http://www.nycourts.gov/ip/gfs/LandingCollected.shtml](http://www.nycourts.gov/ip/gfs/LandingCollected.shtml)
BEST PRACTICE GUIDELINES FOR PSA

Chapter 408 of the Laws of 2013 A7642/S 5324-A

Signed by Governor Cuomo 10/21/13, effective immediately upon enactment

Requires NYS OCFS to create and keep current best practice guidelines for PSA, including but not limited to:

- Reviewing any previous child or adult protective involvement;
- Assessing and Identifying Abuse and Neglect of Persons Believed to be in Need of Protective Services;
- Interviewing Persons Believed to be in Need of Protective Services and their Caretakers;
- Reviewing when it is Appropriate to seek a Warrant to Gain Access to Persons Believed to be in need of Protective Services;
- Identifying and Making referrals for Appropriate Services; and
- Communicating the Rights of Persons believed to be Eligible for Protective Services

OCFS will share draft guidelines with local districts for review and comment. Once developed these guidelines will be distributed to all PSA units and placed on the OCFS website.
JUSTICE CENTER UPDATES

The Protection of People with Special Needs Act went into effect June 30, 2013.

Letter of June 12, 2013: guidance regarding:

- Code of Conduct for Custodians of People with Special Needs
- Notice to Mandated Reporters

Letter of January 17, 2014: guidance regarding:

- Reporting of Resident Deaths;
- Requirements for Obtaining Clearance from State Exclusion List (SEL) of Vulnerable Person Central Registry (VPCR) and Statewide Central Register of Child Abuse and Maltreatment (SCR)
- Code of Conduct for Custodians of People with Special Needs
- Notice to Mandated Reporters
- Cooperation with Staff of: Justice Center; OCFS (regional and Bureau of Adult Services); and LDSS
Memoranda Of Understanding (MOUs) Between Local District Protective Services for Adults (PSA) and Developmental Disability Services Offices (DDSOs)

- Required under Mental Hygiene Law section 16.19 (d) (2)
- Model MOU include in 07 OCFS-ADM-04

In September, 2013 OPWDD issued new Emergency Regulations as a result of the enactment of the Justice Center legislation. This included amendment of 14 NYCRR Parts 624, 633 and 687, and the addition of a new Part 625. Part 625 is entitled *Agency involvement in events or situations that are not under the auspices of an agency.* Generally speaking, Part 625 addresses the responsibilities of OPWDD for investigation and intervention in cases other than those involving residents of OPWDD-licensed residential settings.

Since the filing of these Emergency Regulations OCFS has been advised by local district PSA supervisors that certain representatives of certain DDSOs had been interpreting the new regulations as meaning that the responsibilities of DDSOs/voluntary agencies under OPWDD jurisdiction for investigation/intervention had lessened, and that the responsibilities of PSA had increased.

We contacted the OPWDD director of Incident Management about this situation. We were advised that OPWDD does NOT interpret the regulations as having altered the responsibilities of the DDSOs and voluntary agencies for investigation and intervention in cases of adults with developmental disability living in the community. OPWDD has provided training of its DDSO and the voluntary agency staff regarding the continuing responsibility under the Part 625 regulations to intervene in cases of physical abuse, sexual abuse, emotional abuse, neglect by others, self neglect and financial exploitation. The OPWDD training power-point contains a slide that states:

**MOU with APS remains in force**

We were advised by the OPWDD director of Incident Management that she will be reiterating that message during a March teleconference to DDSO and voluntary agency staff. I have invited OPWDD to participate with us in another joint training on the MOU. We hope that later this year we will produce a training video that will be available for online viewing by PSA, the DDSOs and the voluntary agencies.

OPWDD recommends that PSA staff contact OPWDD the Incident Management Staff located in their regional DDSO to address issues of appropriate investigations and interventions by the DDSOs /voluntary agencies. Your Bureau of Adult Services representative can advise you of the correct contact. Please advise your bureau representative of issues that arise concerning the implementation of the MOU with your regional DDSO.
Federal Interagency Guidance on Privacy Laws and Reporting Financial Abuse of Older Adults

On September 4, 2013, federal regulators issued important guidance to financial institutions stating that the federal bank privacy law, the Gramm-Leach-Bliley Act, contains exemptions that expressly permit financial institutions to report suspected financial exploitation of their customers to PSA and law enforcement. This is very much consistent with the training that OCFS has been providing to PSA staff at New Worker Institute and other trainings related to financial exploitation, and to the training that OCFS has been providing to financial institutions.

It is very significant that the federal regulators of the financial community have issued this guidance. It is one thing for OCFS and local PSA staff to say there are these Safe Harbors that permit financial institutions to disclose to PSA and law enforcement customer financial information when needed as part of a financial exploitation investigation; it’s another thing, and more meaningful to the financial institutions to hear this from the agencies that regulate them. This guidance provides yet another measure of assurance to financial institutions that they will be free from liability when they release such information to PSA and law enforcement as part of a financial exploitation investigation. It is important that you know about this new guidance so that you can help bring it to the attention of those financial institutions in your communities who have not gotten the message.

This new guidance is assurance in addition to the immunity provision in the Social Services Law section 473-b law for those who in good faith report to PSA or testify about abuse, neglect or financial exploitation. This is assurance in addition to the fact that Social Services Law section 144-a and banking Law section 4 both expressly authorize and require financial institutions to provide requested information to PSA.

We hope that this new federal guidance (see link below) will serve to increase the comfort level of financial institutions in making referrals and in cooperating with PSA on these types of cases. We have also included the link for the New York Credit Union Best Practices Guide on Detecting and Reporting Elder Financial Abuse for your review.

Link to the Federal Guidelines

Link to the New York Credit Union Best Practices Guide
New York State Supplement Program (SSP)

Transitioning from Federal to State Administration

What is SSP?
The New York State Supplement Program (SSP) provides state-funded financial assistance to aged, blind and disabled individuals and is part of the monthly benefit paid to most Supplemental Security Income (SSI) recipients.

What is changing?
Until October 1, 2014, New York State residents who receive SSI/SSP benefits get one payment from the Social Security Administration (SSA) that combines the federal SSI benefit and the New York SSP benefit. Starting October 1, 2014, New York SSI/SSP recipients will get the federal SSI benefit and the state SSP benefit separately.

Why is this change happening?
New York State will realize significant savings by administering the SSP benefits directly instead of paying SSA to administer this program on its behalf.

How will the program be administered?
The SSP Bureau in the Center for Employment and Economic Supports within the NYS Office of Temporary and Disability Assistance (OTDA) will operate the Program. There will be no walk-in office. All business will be conducted by telephone, fax and mail. A customer support center with a toll free number will be available to assist recipients.

When will the change occur?
The first SSP benefits will be issued by New York State on October 1, 2014.

Will recipients notice a difference?
The only change that SSI/SSP recipients will experience is the receipt of two monthly payments rather than one. SSP recipients will receive their SSP benefits in the same manner that they receive their SSI benefit. Direct deposits, including deposits into Direct Express accounts, will go into the same account and payments will be issued on or before the first of each month.

How will recipients be officially notified of this change?
The SSP Bureau will mail letters to all recipients in August 2014. SSA will also send out a notification. Prior to this time, the SSP Bureau will be involved in a variety of outreach activities geared towards recipients, local providers and related State Agencies.
Who do recipients contact about changes in their situation?
Changes that occur before October 1, 2014 should be reported to SSA. After October 1, 2014, changes that affect SSI benefits must be reported to SSA. If recipients only receive SSP benefits, changes must be reported to the SSP Bureau. A toll-free number will be staffed during normal business hours.

Will a recipient’s representative payee remain the same?
If the recipient currently has a representative payee for SSI purposes, the representative payee will remain the payee for the SSP benefit.

How will these changes impact SSDs?
A Local Commissioners’ Memorandum which describes the SSP takeover process, including those changes that will impact SSDs, will be issued during late summer 2014.

State Supplement Program
Transition Timeline

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
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<tbody>
<tr>
<td>January 2014</td>
<td>Formal outreach activities begin</td>
</tr>
<tr>
<td>August 2014</td>
<td>Transition Letter is mailed to current recipients</td>
</tr>
<tr>
<td>August 2014</td>
<td>SSP Customer Support Center is activated along with the toll free number to receive phone calls from recipients</td>
</tr>
<tr>
<td>September 2014</td>
<td>SSA Transition Letter is mailed to current recipients</td>
</tr>
<tr>
<td>October 1, 2014</td>
<td>NYS assumes responsibility for administration of the State Supplement Program from the SSA</td>
</tr>
<tr>
<td></td>
<td>NYS begins making SSP payments</td>
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Chapter 526 – Family Offense Amendments

- § 812 Family Court Act:

“Family Offense” committed
Between
“members of the same family or household”

Chapter 526 – Family Offense Amendments

Section 812 FCA “members of the same family or household” shall mean the following:

(a) Persons related by consanguinity or affinity
(b) Persons legally married to one another
(c) Persons formerly married to one another regardless of whether they still reside in the same household
(d) Persons who have a child in common regardless of whether such persons have been married or have lived together at any time

Chapter 526 – Family Offense Amendments

(e) Persons who are not related by consanguinity or affinity and who are or have been in an intimate relationship regardless of whether such persons have lived together at any time
Chapter 526 – Family Offense Amendments

Financial crimes added to list of "Family Offenses":

- Identity theft
- Larceny
- Coercion

Chapter 526 – Family Offense Amendments

Recent additions to the "Family Offense" list:

- Stalking
- Criminal obstruction of breathing or blood circulation
- Strangulation
- Identity theft
- Grand larceny
- Coercion

Chapter 526 – Family Offense Amendments

§ 446. Order of protection:

(i) 1. To promptly return specified identification documents to the protected party, in whose favor the order of protection or temporary order of protection is issued; provided, however, that such order may:

(a) include any appropriate provision designed to ensure that any such document is available for use as evidence in this proceeding, and available if necessary for legitimate use by the party against whom such order is issued; and (B) specify the manner in which such return shall be accomplished
Chapter 526 – Family Offense Amendments

“Identification Document”:

a) Exclusively in the name of the protected party:
- Birth certificate
- Passport
- Social security card
- Health insurance or other benefits card
- A card or document used to access bank, credit or other financial accounts or records
- Tax returns
- Driver’s license
- Immigration documents

(b) Any of the following, including those that may reflect joint use or ownership, that the court determines are necessary and are appropriately transferred to the protected party:
- Any card or document used to access bank, credit or other financial accounts or records
- Tax returns
- Any other identifying cards and documents

THE UNIFORM GUARDIANSHIP AND PROTECTIVE PROCEEDINGS JURISDICTION ACT (UGAPPJA)

New Article 83 of the Mental Hygiene Law
- Effective April 21, 2014
Mental Hygiene Law Article 83

• 83.03(e): "Home state" means the state in which the respondent was physically present, including any period of temporary absence, for at least six consecutive months immediately before the filing of a petition for a protective order or the appointment of a guardian of the person; or if none, the state in which the respondent was physically present, including any period of temporary absence, for at least six consecutive months ending within the six months prior to the filing of the petition.

Mental Hygiene Law Article 83

• 83.03(m) "Significant-connection state" means a state, other than the home state, with which a respondent has a significant connection other than mere physical presence and in which substantial evidence concerning the respondent is available.

Mental Hygiene Law Article 83

• 83.03(h): "Protected person" means an adult for whom a protective order has been issued.

• 83.03(i) "Protective order" means an order appointing a conservator or guardian of the property or other order related to management of an adult's property.
Mental Hygiene Law Article 83

83.09: Cooperation between courts:

(a) In a proceeding for the appointment of a guardian of the person or protective proceeding in this state, a court of this state may request the appropriate court of another state to do any of the following:

1. Hold an evidentiary hearing
2. Order a person in that state to produce evidence or give testimony pursuant to procedures of that state
3. Order that an evaluation or assessment be made of the respondent
4. Order any appropriate investigation of a person involved in a proceeding
5. Forward to the court of this state a certified copy of the transcript or other record of a hearing under paragraph one of this subdivision or any other proceeding, any evidence otherwise produced under paragraph two of this subdivision, and any evaluation or assessment prepared in compliance with an order under paragraph three or four of this subdivision
6. Issue any order necessary to assure the appearance in the proceeding of a person whose presence is necessary for the court to make a determination, including the respondent or the person subject to a guardianship of the person or protected person; and
7. Issue an order authorizing the release of medical, financial, criminal, or other relevant information in that state, including protected health information
Mental Hygiene Law Article 83

(b) The court may receive any evidence produced pursuant to subdivision (a) of this section in the same manner that it would admit into evidence the report of a court evaluator after the court evaluator had been subject to cross examination.

Mental Hygiene Law Article 83

(c) If a court of another state in which a guardianship or protective proceeding is pending requests assistance of the kind provided in subdivision (a) of this section, a court of this state has jurisdiction for the limited purpose of granting the request or making reasonable efforts to comply with the request.

Mental Hygiene Law Article 83

83.13: Significant connection factors. In determining under section 83.17 and subdivision (e) of section 83.31 of this article whether a respondent has a significant connection with a particular state, the court shall consider:

(a) The location of the respondent’s family and other persons required to be notified of the proceeding

(b) The length of time the respondent at any time was physically present in the state and the duration of any absence

(c) The location of the respondent’s property; and
Mental Hygiene Law Article 83

83.13: Significant connection factors.

(d) The extent to which the respondent has ties to the state such as voting registration, state or local tax return filing, vehicle registration, driver’s license, social relationship, and receipt of services

83.17: Jurisdiction. A court of this state has jurisdiction to appoint a guardian of the person or issue a protective order for a respondent if:

(a) The state is the respondent’s home state
(b) On the date the petition is filed, this state is a significant-connection state and:
   1. The respondent does not have a home state or a court of the respondent’s home state has declined to exercise jurisdiction because this state is a more appropriate forum; or

2. The respondent has a home state, a petition for an appointment or order is not pending in a court of that state or another significant connection state, and before the court makes the appointment or issues the order:
   • (i) A petition for an appointment or order is not filed in the respondent’s home state
   • (ii) An objection to the court’s jurisdiction is not filed by a person required to be notified of the proceeding; and
Mental Hygiene Law Article 83

83.17: Jurisdiction

- (iii) The court in this state concludes that it is an appropriate forum under the factors set forth in section 83.23 of this article

83.17: Jurisdiction

(c) This state does not have jurisdiction under either subdivision (a) or (b) of this section, the respondent’s home state and all significant-connection states have declined to exercise jurisdiction because this state is the more appropriate forum, and jurisdiction in this state is consistent with the constitutions of this state and the United States; or

(d) The requirements for special jurisdiction under section 83.19 of this article are met

83.23: Appropriate forum

(a) A court of this state having jurisdiction under section 83.17 of this article to appoint a guardian of the person or issue a protective order may decline to exercise its jurisdiction if it determines at any time that a court of another state is a more appropriate forum
Mental Hygiene Law Article 83

83.23: Appropriate forum
(b) If a court of this state declines to exercise its jurisdiction under subdivision (a) of this section, it shall either dismiss or stay the proceeding. The court may impose any condition the court considers just and proper, including the condition that a petition for the appointment of a guardian of the person or issuance of a protective order be filed promptly in another state.

Mental Hygiene Law Article 83

(c) In determining whether it is an appropriate forum, the court shall consider all relevant factors, including:
1. Any expressed preference of the respondent
2. Whether abuse, neglect or exploitation of the respondent has occurred or is likely to occur, and which state could best protect the respondent from the abuse, neglect or exploitation

Mental Hygiene Law Article 83

(c) In determining whether it is an appropriate forum, the court shall consider all relevant factors, including:
3. The length of time the respondent was physically present in or was a legal resident of this or another state
4. The distance of the respondent from the court in each state
5. The financial circumstances of the respondent’s estate
In determining whether it is an appropriate forum, the court shall consider all relevant factors, including:

6. The nature and location of the evidence
7. The ability of the court in each state to decide the issue expeditiously and the procedures necessary to present evidence
8. The familiarity of the court of each state with the facts and issues in the proceeding; and
9. If an appointment were made, the court’s ability to monitor the conduct of the guardian or conservator.

83.31: Transfer of guardianship or conservatorship to another state
(a) A guardian of the person or a guardian of the property appointed in this state may petition the court to transfer the guardianship to another state.

(b) Notice of a petition under subdivision (a) of this section must be given to the persons that would be entitled to notice of a petition in this state for the appointment of a guardian of the person or a guardian of the property.
Mental Hygiene Law Article 83
83.31: Transfer of guardianship or conservatorship to another state
(c) On the court's own motion or on request of the guardian of the person, the guardian of the property, the person subject to the guardianship of the person, or the protected person, or other person required to be notified of the petition, the court shall hold a hearing on a petition filed pursuant to subdivision (a) of this section.

Mental Hygiene Law Article 83
83.31: Transfer of guardianship or conservatorship to another state
(d) The court shall issue an order provisionally granting a petition to transfer a guardianship of the person and shall direct the guardian of the person to petition for guardianship of the person in the other state if the court is satisfied that the guardianship of the person will be accepted by the court in the other state and the court finds that:

- The person subject to the guardianship of the person is physically present in or is reasonably expected to move permanently to the other state.
Mental Hygiene Law Article 83

83.31: Transfer of guardianship or conservatorship to another state

2. An objection to the transfer has not been made or, if an objection has been made, the objector has not established that the transfer would be contrary to the interests of the person subject to the guardianship of the person; and

3. Plans for care and services for the person subject to the guardianship of the person in the other state are reasonable and sufficient.

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Mental Hygiene Law Article 83

83.31: Transfer of guardianship or conservatorship to another state

(e) The court shall issue a provisional order granting a petition to transfer a guardianship of the property and shall direct the guardian of the property to petition for guardianship of the property in the other state if the court is satisfied that the guardianship of the property will be accepted by the court of the other state and the court finds that:

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Mental Hygiene Law Article 83

83.31: Transfer of guardianship or conservatorship to another state

1. The protected person is physically present in or is reasonably expected to move permanently to the other state, or the protected person has a significant connection to the other state considering the factors in section 83.13 of this article.
Mental Hygiene Law Article 83

83.31: Transfer of guardianship or conservatorship to another state

2. An objection to the transfer has not been made or, if an objection has been made, the objector has not established that the transfer would be contrary to the interests of the protected person; and

3. Adequate arrangements will be made for management of the protected person’s property

(f) The court shall issue a final order confirming the transfer and terminating the guardianship of the person or property upon its receipt of:

1. A provisional order accepting the proceeding from the court to which the proceeding is to be transferred which is issued under provisions similar to section 83.33 of this article; and

2. The documents required to terminate a guardianship of the person or property in this state

Article 81
Consent to Appointment of Guardian

Matter of James D.(Buffalino)

Matter of L.J.L

A court determining a person’s capacity to agree to a guardianship will generally consider:

1. The individual’s ability to meaningfully interact and converse with the court

2. His or her understanding of the nature of the proceeding; and

3. His or her comprehension of the personal and property management powers being relinquished
Article 81
Voiding Questionable Marriages and Other Contracts
Matter of Doar (L.S.)

1. An order restraining the Cross-Petitioner/wife from accessing any funds belonging to the AIP or in which the AIP had an equitable interest

2. An order appointing a geriatric care manager because the AIP was neglected and to ascertain if he could be safely maintained in his four-story walk up

3. An order appointing a Temporary Guardian to protect the AIP’s person and property since the wife was not adequately providing for him and to contract for home care

4. An order that the wife admit the Court Evaluator into the AIP’s apartment so that the investigation and report could be completed

5. An order restraining Morgan Stanley from allowing the wife to withdraw any funds

6. An order for emergency spousal support against Cross- Petitioner pursuant to Family Court Act § 442. (wife had transferred $120,000 from his account to her account, order of support to get this money back)
Best Practice Guidelines for PSA

• Chapter 408 of the Laws of 2013
• Signed by Governor Cuomo 10/21/13, effective immediately upon enactment

NYS OCFS is required to create and keep current best practice guidelines for PSA, including but not limited to:

• Reviewing any previous child or adult protective involvement
• Assessing and Identifying Abuse and Neglect of Persons Believed to be in Need of Protective Services

NYS OCFS is required to create and keep current best practice guidelines for PSA, including but not limited to:

• Interviewing Persons Believed to be in Need of Protective Services and their Caretakers
• Reviewing when it is Appropriate to seek a Warrant to Gain Access to Persons Believed to be in need of Protective Services
NYS OCFS is required to create and keep current best practice guidelines for PSA, including but not limited to:

• Identifying and making referrals for appropriate Services; and
• Communicating the Rights of Persons believed to be Eligible for Protective Services

OCFS will share draft guidelines with local districts for review and comment.

Once developed, these guidelines will be distributed to all PSA units and placed on the OCFS website.

Protection of People With Special Needs Act

(Justice Center Legislation)

*Effective June 30th, 2013
Important Updates Regarding the Justice Center:
Letter of June 23, 2013

- Code of Conduct for Custodians of People with Special Needs
- Notice to Mandated Reporters

Important Updates Regarding the Justice Center:
Letter of January 17, 2014

- Reporting of Resident Deaths
- Requirements for Obtaining Clearance from Staff Exclusion List (SEL) of Vulnerable Person Central Registry (VPCR) and Statewide Central Register of Child Abuse and Maltreatment (SCR)

Important Updates Regarding the Justice Center:
Letter of January 17, 2014

- Code of Conduct for Custodians of People with Special Needs
- Notice to Mandated Reporters
- Cooperation with Staff of: Justice Center; OCFS (regional and Bureau of Adult Services) ; and LDSS
Reporting of Resident Deaths:

- Must immediately report any death of a resident upon your discovery of the death by witnessing or learning of the death
- Must call the Vulnerable Persons’ Central Register (VPCR) Death Reporting Line at 1-855-373-2124
- Must also complete and submit Form JC v1: Report of Death to the Justice Center within 5 working days of the discovery of the death

Requirements for Obtaining Clearance from Staff Exclusion List (SEL) of Vulnerable Person Central Registry (VPCR) and Statewide Central Register of Child Abuse and Maltreatment (SCR):

- Effective June 30, 2013, all applicants for operating certificates (initial or renewal), all family members of the operator age 18 and older who live in the home, and staff, contractors, consultants or volunteers who will have the potential for regular and substantial contact with residents, must go through a process for clearances for both the VPCR Staff Exclusion List (SEL) and the Statewide Central Register (SCR). OCFS is applying this requirement as well to any other adult (age 18 or older) living in the home, other than residents. Therefore “boarders” (i.e., persons other than residents who pay to live in the home) would also be included.
Requirements for Obtaining Clearance from Staff Exclusion List (SEL) of Vulnerable Person Central Registry (VPCR) and Statewide Central Register of Child Abuse and Maltreatment (SCR):

• Request for Staff Exclusion List Check Form: must submit one for every applicant, and must wait for Justice Center response before proceeding with any hiring process or allowing said individual to have regular and substantial contact with residents
  – Under “Facility/Provider Name”, state the name of the Family Type Home
  – Under “State Oversight Agency,” circle OCFS

Requirements for Obtaining Clearance from Staff Exclusion List (SEL) of Vulnerable Person Central Registry (VPCR) and Statewide Central Register of Child Abuse and Maltreatment (SCR):

• Request for Staff Exclusion List Check Form: Send form to:
  Deborah Greenfield
  Family Type Home for Adults Coordinator
  NYSOCFS
  Bureau of Adult Services
  Room 333, North Building
  52 Washington Street
  Rensselaer, New York 12144
Requirements for Obtaining Clearance from Staff Exclusion List (SEL) of Vulnerable Person Central Registry (VPCR) and Statewide Central Register of Child Abuse and Maltreatment (SCR):

- **Statewide Central Register Database Check Form (LDSS-3370):** must submit one for every applicant, and must wait for Justice Center response before proceeding with any hiring process or allowing said individual to have regular and substantial contact with residents
  - A separate form must be completed for each person who requires screening
  - Addresses for the last 28 years must be provided

Send form to:
Deborah Greenfield
Family Type Home for Adults Coordinator
NYSOCFS
Bureau of Adult Services
Room 333, North Building
52 Washington Street
Rensselaer, New York 12144
New Federal Regulatory Guidance On Federal Bank Privacy Act Exemptions

- On 9/24/13, interagency Guidance was issued to financial institutions stating that the Gramm-Leach-Bliley Act (GLBA) provisions at 15 USC 6802 permit the sharing of customer information to PSA and law enforcement (without complying with notice and opt-out requirements) where financial exploitation is suspected.

Guidance issued by:
- Board of Governors of Federal Reserve System
- Commodity Futures Trading Commission
- Consumer Financial Protection Bureau
- Federal Deposit Insurance Corporation

Guidance issued by:
- Federal Trade Commission
- National Credit Union Administration
- Office of the Comptroller of the Currency
- Security and Exchange Commission
“Safe Harbors” in Federal Bank Privacy Laws

- Express exemptions in this act permit such disclosure:
  - "to protect against or prevent action or potential fraud, unauthorized transactions, claims or other liability;" and
  - "to the extent specifically permitted or required under other provisions of law" such as state PSA and Banking law; and
  - "to comply with....state or local laws, rules and other applicable requirements"

- These exemptions apply in the case of PSA investigation of financial exploitation of vulnerable adults
New York State Supplement Program (SSP)

• The New York State Supplement Program (SSP) provides state-funded financial assistance to aged, blind and disabled individuals and is part of the monthly benefit paid to most Supplemental Security Income (SSI) recipients.

New York State Supplement Program (SSP)
Transitioning from Federal to State Administration

• Until October 1, 2014, New York State residents who receive SSI/SSP benefits get one payment from the Social Security Administration (SSA) that combines the federal SSI benefit and the New York SSP benefit.

• Starting October 1, 2014, New York SSI/SSP recipients will get the federal SSI benefit and the state SSP benefit separately.

New York State Supplement Program (SSP)
Transitioning from Federal to State Administration

• The SSP Bureau in the Center for Employment and Economic Supports within the NYS Office of Temporary and Disability Assistance (OTDA) will operate the Program.
  – The first SSP benefits will be issued by New York State on October 1, 2014.
New York State Supplement Program (SSP)
Transitioning from Federal to State Administration

Timeline:
• January 2014 - Formal outreach activities begin
• August 2014 - Transition Letter is mailed to current recipients
• August 2014 - SSP Customer Support Center is activated along with the toll free number to receive phone calls from recipients

New York State Supplement Program (SSP)
Transitioning from Federal to State Administration

Timeline:
• September 2014 - SSA Transition Letter is mailed to current recipients
• October 1, 2014 - NYS assumes responsibility for administration of the State Supplement Program from the SSA and begins making SSP payments

Memoranda OF Understanding (MOUs) Between Local District Protective Services for Adults (PSA) and Developmental Disability Services Offices (DDSOs)
• Required under Mental Hygiene Law section 16.19(d)(2)
• Model MOU included in 07 OCFS-ADM-04
• In September 2013, OPWDD issued new Emergency Regulations as a result of enactment of Justice Center
Memoranda OF Understanding (MOUs) Between
Local District Protective Services for Adults (PSA) and
Developmental Disability Services Offices (DDSOs)

• The new regulations, among other things, add a new Part 625, entitled Agency involvement in events or situations that are not under the auspices of an agency.
• Part 625 addresses responsibilities of OPWDD for investigation and intervention in cases other than those involving residents of OPWDD-licensed settings.

Memoranda OF Understanding (MOUs) Between
Local District Protective Services for Adults (PSA) and
Developmental Disability Services Offices (DDSOs)

• Since filing of new regulations, some DDSO representatives have erroneously advised some PSA staff that these regulations lessen OPWDD responsibility for investigation/intervention. THIS IS NOT THE CASE!!
• OPWDD has affirmed the MOU is still in full effect, and the DDSOs and voluntary agencies under OPWDD jurisdiction retain primary responsibility for investigation and intervention for their clients, per the MOU.

Memoranda OF Understanding (MOUs) Between
Local District Protective Services for Adults (PSA) and
Developmental Disability Services Offices (DDSOs)

• OPWDD recommends that PSA staff contact designated OPWDD Incident Management Staff located in the regional DDSO to address issues of appropriate investigations and interventions by the DDSOs/voluntary agencies.
• Please advise your Bureau of Adult Services representative of issues that arise concerning implementation of the MOU with your regional DDSO.
REPORT OF DEATH TO THE JUSTICE CENTER

Form JC v 1

Justice Center Incident Report Confirmation #

Red boxed information is required write unknown if applicable

Name: (Last,First) Date Report Prepared:
Gender: Date of Birth: Age:
Race:

Height - Feet: 

- Inches: 

Weight: 

lbs.

SSN: 

Section 1: Reporting Agency/Facility/Program Data

Name of reporting Agency:

Address:

Executive Director/CEO:

Name of Person Preparing Report:

Title of Person Preparing Report:

Name of Contact Person for this Report:

Title of Contact Person:

Name and Address of Specific Program/Facility, Within the Agency, Which Served the Recipient:

Date of admission to this program:

Agency/Program/Facility Operated/Certified/Licensed By: SOA

Section 2: Recipient information

Recipient's Service Relationship to Agency/Facility/Program:

☐ Resided in an Operated/Certified/Licensed; type of program

☐ Received Only non-residential services

Type of program

Is the individual receiving service from any other program under the jurisdiction of NYS?

Yes ☐ No ☐

If yes, give name and address of responsible agency(ies)

Mental Disability Diagnosis (including Substance Abuse Diagnosis):

1. Yes ☐ No ☐ ICD Code Enter Diagnosis or N/A

2. Yes ☐ No ☐ ICD Code Enter Diagnosis or N/A

3. Yes ☐ No ☐ ICD Code Enter Diagnosis or N/A

4. Yes ☐ No ☐ ICD Code Enter Diagnosis or N/A

If additional space is needed use the end of the form!

Date of last ER visit for psychiatric or Substance abuse reasons: from: To:

Date of last hospitalization for psychiatric or substance abuse reasons: from: To:
REPORT OF DEATH TO THE JUSTICE CENTER

Section 2: Recipient information Continued
Physical Illness/Conditions Diagnosed Prior to Death-ICD Codes if available:

1. Yes ☐ No ☐ ICD Code Enter Diagnosis or N/A

2. Yes ☐ No ☐ ICD Code Enter Diagnosis or N/A

3. Yes ☐ No ☐ ICD Code Enter Diagnosis or N/A

4. Yes ☐ No ☐ ICD Code Enter Diagnosis or N/A

Date of last ER visit for physical reasons from: To:
Date of last hospitalization for physical reasons: from: To:

Medications at time of death:

<table>
<thead>
<tr>
<th>Medication</th>
<th>Dose (in mg.)</th>
<th>Frequency</th>
<th>Route</th>
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Section 3: Death Data

Date of Death: Pronounced Time of Death: ☐ AM ☐ PM
Location Where Individual Died: Location Address Actual Time of Death: ☐ AM ☐ PM

County of Death:
Location Classification:
Cause of Death: Immediate Cause

Due to or as a consequence of
Due to or as a consequence of
Section 3: Death Data Continued

Manner of Death:

Was an Autopsy Completed:  □ Unknown  □ NO  □ Yes  ME/Coroner case number

Source of Cause of Death and Manner of Death is:

Name and Telephone Number

Within 24 hours of death was recipient:  □ On DNR/DNI status  □ Given stat/PRN medication for behavioral or psychiatric reasons

Is there any indication that this death may:

□ have resulted from an accident  □ have resulted from the use of a controlled substance or alcohol
□ have resulted from a homicide  □ have resulted from the attempted use of restraint
□ have resulted from a suicide  □ have resulted from the attempted use of seclusion/time out
□ have resulted from a medication error  □ be an unexplained death
□ have resulted from a medication/drug overdose  □ be an unexpected death

Section 4: Narrative Summary

Describe the recipient's psychiatric, behavioral and medical status within 90 days prior to Death

Routine medical follow-up  Primary care visit:

Routine speciality care visit:  cardiologist
gastroenterologist
urologist
gynecologist
neurologist
orthopedist
pulmonologist
other (specify)
Section 4: Narrative Summary continued

Acute medical issue

☐ Choking
☐ Fall
☐ Seizure
☐ Weight loss lbs.
☐ Weight gain lbs.
☐ Change in bowel habits
☐ Change in bladder habits
☐ Change in ambulation
☐ Change in food intake
☐ Change in medication
☐ Change in fluid intake
other (specify)

Acute psychiatric issue

☐ Change in psychiatric status
☐ Change in behavior planning/supervision
other (specify)

Describe the safeguards and diet, if ordered, specifically for recipient:
Safeguards

other (specify)

Diet Ordered for Decedent

Food
☐ no special diet
☐ cut to specific size
☐ chopped
☐ ground
☐ soft
☐ pureed
other (specify)

Fluid
☐ no altered consistency
☐ thin
☐ thickened
☐ nectar thick
☐ honey thick
☐ pudding thick
Section 4: Narrative Summary continued

Were all components of the eating plan followed at the time of death?

Indicate significant changes in the 90 day period prior to death that impacted the recipient.

Please check applicable boxes

* Changes in service providers
  - [ ] residence
  - [ ] program
  - [ ] case manager/MSC
  - [ ] transportation
  - [ ] medical provider

* Changes in treatment regimen
  - [ ] medication
  - [ ] diet
  - [ ] supervision
  - [ ] behavior plan
  - [ ] treatment plan

* Changes in level of functioning
  - [ ] Decline in physical health
  - [ ] Decline in mental health
  - [ ] Required increased assistance with ADLs
  - [ ] Required increased monitoring/supervision
  - [ ] Required higher level of care
  - [ ] placed on hospice
  - [ ] comfort care

DESCRIBE CIRCUMSTANCES LEADING UP TO AND INCLUDING DEATH.
Instructions for Completing the Statewide Central Register Database Check Form

LDSS-3370

All information on the form must be easily read so that data entry and results are accurate. Each SCR Database Check submitted should be reviewed for completeness and legibility by the program/agency liaison. If the form is incomplete or illegible, it will be returned to the agency for corrections.

The Proper Way to Complete the Form:

Agency Information

Top Line of Form:
- The three-digit agency code must be placed in the top left-hand box, followed by the Resource I.D. (RID) in the next box to the right. (Contact the licensing agency if there are any questions about these.)
- Daycare providers must place their Child Care Facility System (CCFS) Number in the box next to Resource ID (RID), in lieu of Resource ID number. (Contact your licensing agency/Regional Office if you have any questions).
- Clearance Category letter code (see back of Form LDSS-3370) must be placed in the middle box.
- Phone number (with area code) enables the SCR to contact the agency liaison if this becomes necessary.
- The Request ID Box is for SCR use only.

Agency Address Area:
- Agency Name: Please use full name, no abbreviations
- Agency Liaison is the contact person at the inquiring agency. (*The SCR response will be addressed to the liaison.) The liaison cannot be the applicant or a relative of the applicant.
- Agency Address: Must include street, city

Applicant/Household Member Area:
- All Household Members, Adults and Children, whether related to the applicant or not, are to be listed in this area of the form.
- Remember to write clearly or type all information in order to assist in obtaining an accurate response. Record all names with the last name first, then the first name, and middle name.
- First column: Applicant’s name. If there are more than one applicant place the additional name(s) on the lines below the maiden name line.
- Second line: Any maiden names, previous married names, or aliases by which the applicant is or has been known. Use additional lines if there is more than one maiden married/alias name to be listed.
- Remaining lines: Names of all other household members. (Attach an additional page if needed.)

If there are no other household members, indicate NONE on the line below “Maiden/Alias”.
- First column: indicate the relationship to the applicant of each person listed. (Spouse, son, daughter, mother, father, friend, etc.)
- Sex M/F column: fill in either M (Male) or F (Female) for every person listed.
- Date of Birth column: fill in complete date of birth (mm/dd/yy) for everyone listed on the form.

Address Area:
The information required varies depending on the particular category:
- For Adoption, Foster Care and Family and Group Family Day Care (see back of form for categories), provide addresses for the applicant and any household member who is 18 and older. We need this information for the last 28 years. Attach supplemental pages if necessary, but do not use another LDSS-3370 form to list this additional information. Be sure to associate address histories with particular individuals (i.e., indicate which addresses are for which household members).
- For all other categories, only the applicant’s address history is required – for the last 28 years.
- Complete addresses are required. Include street name and city/town/village. Also include street number and apartment number. Post Office Box numbers are not acceptable. If the applicant has lived abroad, indicate country and dates of residence. If the applicant has spent time in the military, list base names and locations along with dates. Be sure that there are no periods of time unaccounted for.
- The top line is for the current address. The previous address should be listed on the second line downward, and so on to the back of the form for the last 28 years. Staple the attached supplemental page to the form if more space is needed, but do not use another copy of the LDSS-3370 for this additional information.

Signature Area:
Signatures required depend upon the particular category:
- For Adoption, Foster Care and Family and Group Family Day Care (see back of form for category), signatures are needed from the applicant and any household member who is 18 or older.
- For all other categories, only the applicant’s signature is required.
- All signatures must correspond to the names recorded in the Applicant/Household Member Area-for example; Mary Smith should not sign Mary Ann Smith. Victoria Smith should not sign Vicki.
- Applicants must sign in the boxes marked “Applicant’s Signature”, household members over 18 who are not applicants must sign in the boxes at the extreme bottom of the page marked “Signature”.
- All signatures must be dated (mm/dd/yy). The SCR will not accept a form with a signature date more than 6 months old.

If you have questions regarding proper completion of this form, please call the SCR at 518-474-5297.

Mail your Completed LDSS-3370 Form to:

Statewide Central Register
P.O. Box 4480
Albany, N.Y. 12204-0480

To Order a Supply of LDSS-3370 Forms:
NEW YORK STATE
OFFICE OF CHILDREN AND FAMILY SERVICES
STATEWIDE CENTRAL REGISTER DATABASE CHECK
Agency Use Only

ALL INFORMATION MUST BE COMPLETE. PLEASE PRINT OR TYPE

|-------------|-------------------|---------------------------------|-------------------|-------------------|

PRINT BELOW THE ADDRESS ASSOCIATED WITH YOUR RID/CCFS NUMBER:

AGENCY NAME: ____________________________

AGENCY LIAISON: ____________________________

STREET ADDRESS: ____________________________

CITY: ____________________________ STATE: ____________________________ ZIP CODE: ____________________________

The particular classifications of persons who must or may be screened are set forth on the reverse side of this document. The alpha codes to complete the “Category” box above are also on the reverse side of this form. FOR ALL CATEGORIES: Complete the following for yourself, your spouse, your children and any other person(s) in your home at the present time. MAKE SURE YOU COMPLETE ALL MAIDEN NAME/ALIAS SECTIONS THAT APPLY. IF NONE, STATE "NONE" List RELATIONSHIP in the fields below (see reverse side for instructions) Attach additional page if necessary.

The purpose of collecting the demographic data on other persons in your household who are not screened pursuant to Section 424-a of the Social Services Law is to enable the N.Y.S. Office of Children and Family Services to identify with the greatest degree of certainty whether the person(s) being screened is the subject of an indicated child abuse or maltreatment report. The utilization of this information in a discriminatory manner is contrary to the Human Rights Law.

APPLICANT/HOUSEHOLD MEMBER AREA

**PLEASE TYPE OR PRINT CLEARLY**

<table>
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<tr>
<th>RELATIONSHIP TO APPLICANT</th>
<th>LAST NAME</th>
<th>FIRST NAME</th>
<th>SEX M/F</th>
<th>DATE OF BIRTH</th>
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<tr>
<td>APPLICANT</td>
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<td>MAIDEN/ALIAS</td>
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</table>

Please provide your current address and any other addresses at which you have resided for the last 28 years, including street, city and state. For Adoption, Foster Care, Family and Group Family Day Care, also include the same address history for household members 18 of age and older.

<table>
<thead>
<tr>
<th>CURRENT STREET ADDRESS</th>
<th>APT #</th>
<th>CITY</th>
<th>STATE</th>
<th>ZIP</th>
<th>FROM</th>
<th>TO</th>
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<tr>
<td>PREVIOUS STREET ADDRESS</td>
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<td>CITY</td>
<td>STATE</td>
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I affirm that all the information provided on this form is true to the best of my knowledge. I understand that if I knowingly give false statements, such action could be grounds for denial or dismissal from employment or denial or revocation of a license, certificate, permit, registration or approval.

APPLICANT’S SIGNATURE ____________________________ DATE ____________

EIGHTEEN YEARS OLD OR OVER:

I understand that as a person eighteen years of age or over in a home of an applicant to become an Adoptive or a Foster Parent or a Family or Group Family Day Care provider, the information I have provided will be used to inquire of the Statewide Central Register to determine if I am the subject of an indicated report of child abuse or maltreatment.

SIGNATURE ____________________________ DATE ____________

Reviewed 2/2013
AGENCY LIAISON INSTRUCTIONS

Please verify that each form is completed. Incomplete forms will be returned to the sender. For ADOPTION, FOSTER CARE, and FAMILY and GROUP FAMILY DAY CARE, if both spouses are applicants, both are to sign. Persons eighteen years old and over residing in the home of applicants for ADOPTION, FOSTER CARE and FAMILY AND GROUP FAMILY DAY CARE also must sign the form.

AGENCY CODE
Record your 3-digit agency code. NOTE: Day Care, Family and Group Family Day Care and Camps must provide the agency code of the agency or office which issues your license or certificate. Verify your Alpha or Alpha/Numeric 3 digit code with your licensing agency.

DAYCARE PROVIDERS
Must place their Child Care Facility System (CCFS) Number in the box next to Resource ID (RID), in lieu of Resource ID (RID) number. (Contact your licensing agency/Regional Office if you have any questions).

RESOURCE I.D. (RID)
Record your RESOURCE I.D. (RID) in this field. OCFS, OMH, OMRDD, DOH, OASAS and SED licensed agencies and programs, and Local Departments of Social Services, have RID’S as of 9/01. Verify your RID with your licensing agency. If you need assistance, email: ocfs.sm.conn_app@ocfs.ny.gov

CLEARANCE CATEGORIES
Record the appropriate category.

- F - Prospective/new employee other than day care employees. (fee required - see below)*
- D - Prospective employee (Local DSS district - bill against reimbursement)**
- Y - Prospective Day Care employee (fee required - see below)*
- S - Provider of goods/services
- Y - Applying to be a group family day care assistant. (fee required - see below)*
- Q - Applying to be group family day care provider. (fee required - see below)*
- Z - Prospective volunteer/consultant.
- X - Applying to be adoptive parents pursuant to an application pending before the inquiring agency.
- W - Applying to be foster parents or family care home providers.
- R - Applying to be kinship foster parents.
- P - Applying to be family day care provider. (fee required - see below)*
- N - Applying for a license to operate a day care center. (To be submitted by authorized licensing agency only.) (fee required - see below)*
- M - Director of a summer camp, overnight camp, day camp or traveling day camp.
- E - Current employee.

AGENCY LIAISON
Record the name of the person to whom the response should be sent (cannot be the same as applicant or related to the applicant).

APPLICANT/HOUSEHOLD MEMBER AREA INSTRUCTIONS- This information is to be provided by the applicant/employee/provider. See front of form.

- APPLICANT (S) (at least one person must be so designated)-USE FIRST LINE
- MAIDEN NAME/ALTERNATIVE/AKA: must be completed for every applicant. Record ALL previous names used. Start with second line. Use as many lines as needed (One last name per line)
- OTHER HOUSEHOLD MEMBERS: describe relationship to applicant, e.g., son, daughter, father, mother, friend, etc. on remaining lines (ATTACH ADDITIONAL PAGE IF NECESSARY)
- IF NO OTHER HOUSEHOLD MEMBERS, record NONE on line below MAIDEN/ALIAS.

*Social Service Law 424-a requires the collection of a $25.00 fee for certain categories. A certified check, postal or bank money order, tellier's check, cashier's check or agency check made payable to "New York State Office of Children and Family Services" in the amount of twenty-five dollars, is to accompany the form. The check also is to include the applicant's name and the agency code.

N.B.: a separate check must accompany each form.

**Social Service Law 424-a, allows local DSS to bill against their reimbursement the charge collected for screening prospective employees.

If you have questions regarding proper completion of this form, please call the SCR at 518-474-5297.

MAIL YOUR COMPLETED LDSS-3370 FORM TO:

STATEWIDE CENTRAL REGISTER
P.O. BOX 4480, Attention: Service Center Unit
ALBANY, N.Y. 12204-0480

TO ORDER A SUPPLY OF LDSS-3370 FORMS:
Please access the (OCFS-4627) Request for Forms and Publications, from the Intranet: http://ocfs.state.nyenet/admin/forms/SCR/ Internet: http://www.ocfs.state.ny.us/main/forms/cps/ and mail the completed OCFS-4627 Request for Forms and Publications, to:

THE OFFICE OF CHILDREN AND FAMILY SERVICES, RESOURCE DISTRIBUTION CENTER, 11 FOURTH AVE, RENSSELAER, NY 12144. If you have difficulty accessing a form on either site, you can call the automated forms hotline at 518-473-0971.

Reviewed 2/2013
APPLICANT NAME: __________________________

Print clearly. All dates must be consecutive. Be sure to associate address histories with particular individuals.

<table>
<thead>
<tr>
<th>Previous Street Address</th>
<th>City</th>
<th>State</th>
<th>Zip</th>
<th>From</th>
<th>To</th>
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Reviewed 2/2013
APPLICANT NAME: ____________________________________________

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<tr>
<th>SCR Use Only</th>
<th>Relationship To Applicant</th>
<th>Last Name</th>
<th>First Name</th>
<th>Sex</th>
<th>Date of Birth</th>
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Reviewed 2/2013
In order to avoid problems and ensure the attorneys receive credit for attending this teleconference, please adhere to the following procedures:

1. One attendance form should be issued for each site. These forms should include the site, the name of the room supervisor and spaces for the attorney to sign in and out each day. Attorneys must use the same name on the attendance form and on the evaluations filled out at the end of the course. Attorneys must sign in and out each day with their full name.

2. Attorneys are to sign and date the CLE request on the SAME day of the training. Attorneys MUST fill out the CLE request. Attendance sheets without a CLE request form will not be processed.

3. Room supervisors must ensure that attorneys are present for the entire course, including Q&A and should be advised that if they leave early they may jeopardize the right to receive credits. Attorneys arriving more than 10 minutes late will not be awarded credits.

4. At the end of the teleconference Brookdale should be sent the following documents: (a) attendance forms; (b) 1 completed evaluation with CLE request per person. Documents should be sent within 1 week of the conference. CLE forms will be processed 4-6 weeks after receipt.

5. Completed documents will come to Milagro Ruiz of Brookdale. Raquel Romanick of Brookdale will review, issue the Course Summary for the CLE board, send out the CLE certificates and keep the files. Internal training rosters do not need to be submitted.

6. Once attorneys sign in with their full name they can initial in and out.

7. Evaluations should be stapled, and coupled with the corresponding attendance forms. We cannot process missing or partial forms.

8. Attendance forms must state the correct date. If the attorney views the teleconference on tape delay at a later time they cannot sign in on the attendance form for the date of the teleconference.

9. Milagro Ruiz will keep all forms and copies of certificates for a minimum of 4 years.

10. BCHAL is not responsible for incomplete and missing paperwork. BCHAL is not responsible for CLE certificates if attendees do not include a full mailing address.

* Note: CLE credits for the March 19th Legal Aspects of Protective Services for Adults Teleconference are still pending approval by the NYS CLE Board.
REGISTRY FOR CONTINUING LEGAL EDUCATION CREDITS
FOR ATTORNEYS ONLY

Program Title: Legal Aspects of Protective Services for Adults-2014 Update

Date of Program: March 19, 2014       Start Time: 1:30 pm       End Time: 3:30 pm

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Note: A CLE request form will be distributed at the end of the session to all attorneys who successfully complete the entire session.
TRAINING EVALUATION
&
CONTINUING LEGAL EDUCATION (CLE) REQUEST FORM

Your response to the following questions will aid the Law Institute in its efforts to better serve you. Please take a few minutes to respond to the following questions. If you wish to receive Continuing Legal Education (CLE) credit for attending this training, completion of this form is required.

Thank you in advance for your assistance.

“Legal Aspects of Protective Services for Adults-2014 Update”
March 19, 2014 -- Albany, NY

Today’s Date: / /  [Please circle the appropriate answers]

1) In general, the quality of the training was:
   Excellent  Good  Fair  Poor

2) The course training materials were:
   Excellent  Good  Fair  Poor

3) The Instructor’s presentation of the subject was:
   Excellent  Good  Fair  Poor

4) The quality of the technology used was:
   Excellent  Good  Fair  Poor

5) How many Law Institute trainings/workshops have you attended?
   First time  2-4  4-6  6-8  8+  8+

5) How long have you been working in the field covered in this training?
   Beginner  1-3 years  4-6 years  7 years or more

6) Would you take another training course given by the Law Institute?
   Yes  No (Why? )

7) How would you rate the training location and facilities?
   Excellent  Good  Fair  Poor

8) What is your background?
   Law  Social Work  Other: _____________________________

9) If your background is in law, what type:
   Private (elder law)  Law Firm (elder law)  Private (Other ________________________________)
   Paralegal (Other ________________________________)

Please turn over
Training Evaluation (continued)

10) What other benefit program training classes would be of interest to you?

________________________________________________________________________
________________________________________________________________________

11) How did you hear about this particular training?
mailing co-worker our website other________________________

12) Additional Comments / Suggestions: ______________________________________
________________________________________________________________________
________________________________________________________________________

13) If you would like to be placed on our mailing list to receive training announcements, please complete the following:

Name (PLEASE PRINT!): ______________________________________________________
Title: _____________________________________________________________________
Organization: _______________________________________________________________
Address: __________________________________________________________________
Rm/Apt/Suite#: __________________________
City: __________________________ State: ______ Zipcode: ___________
Telephone: (_______) __________________________ Fax: (_______) ________________
Email: ___________________________________________________________________

Continuing Legal Education (CLE) Credit Request:

(Only attorneys may apply)

This will verify that I have attended the “Legal Aspects of Protective Services for Adults” workshop sponsored by the Sadin Institute on Law & Public Policy and request CLE credit for attending this training on ____/____/____.

Name (PLEASE PRINT!) ______________________________________________________
Title _____________________________________________________________________
Organization/Firm: __________________________________________________________
Address: __________________________________________________________________
Floor/Rm/Suite/Apt: _____________
City: __________________________ State ______ Zipcode: ___________
Tel # (_______) __________________________ Fax # (_______) ________________

Signature: __________________________________ Date: _____/____/____

Attendance records will be kept on file in our offices. A letter verifying your attendance will be issued upon written request to The Sadin Institute on Law & Public Policy, Brookdale Center for Healthy Aging, 2180 3rd Avenue, NY, NY 10035. For the workshop named above, you will receive the following transitional/non-transitional CLE credit(s): pending approval
Questions I Have

Name: _____________________________ Daytime Phone: (_____)_______________

E-mail address: _____________________________________________________________

Site Location:  _____________________________________________________________

Question(s): ______________________________________________________________
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FAX PROGRAM QUESTIONS TO: 518-472-5165

PHONE NUMBER FOR PROGRAM QUESTIONS: 518-408-4821

PHONE NUMBER FOR TECHNICAL PROBLEMS: 518-408-3400 OR 518-474-2424