

GUIDELINES FOR COMPLETING THE MANDATORY DISCLOSURE FORM FOR HOME PROVIDER/ RESPITE WORKERS

WHAT IS THE PURPOSE OF THIS FORM? A Vermont law was passed in May, 2002 to assure that home providers and day/overnight respite workers have relevant information about DDMHS consumers so that they can make an informed decision about whether to agree to provide care for a consumer in their own home. Specifically, the law states that designated and specialized service agencies are required to give home and day/overnight respite providers paid by the agency information about a person's history of violent behaviors, any potential predictors of violent behavior, and any medications they are taking. This must be done with the consumer's authorization, but the home/respite provider has the option of deciding to still care for the consumer even if the consumer refuses to disclose relevant information (see below).

This Mandatory Disclosure Form is meant only to comply with this new law. It does not preclude any information exchange that an agency already has in place to ensure quality care is being provided for consumers. In other words, this form is the minimum requirement for information that **MUST** be provided – more information can be provided through this or other mechanisms if deemed appropriate and with the consumer's authorization.

This mandatory disclosure of information also does not replace a mental health professional's Duty to Warn (Peck v. CSAC). In other words, the obligation to exercise reasonable care to protect identifiable potential victims when there is, or should be, knowledge that a consumer poses a serious risk of danger to him/her remains intact. The Duty to Warn is different from this mandatory information disclosure, and is not affected by it.

WHO SHOULD COMPLETE THIS FORM? The Mandatory Disclosure Form should be completed by the agency staff person who knows the consumer best, and who has access to the clinical records to assure that all known relevant information is included.

WHO SHOULD GET THIS FORM? The Mandatory Disclosure Form must be given to any home care provider or respite worker that your agency is attempting to contract with to provide care in his or her home for a consumer of your agency. (It is the responsibility of the home care providers to share relevant information with anyone that they directly contract with to provide respite.) Consumers and families who totally self manage their services or hire their own workers are not included in this mandatory disclosure law.

(over)

WHAT IS THE PROCESS FOR OBTAINING AUTHORIZATION? Authorization from the consumer to disclose this information should be obtained by the designated or specialized service agency in writing, via the agency's routine confidentiality policies and authorization form. The Authorization Form must include notice that information disclosed to home providers will include medications and any relevant information concerning history of violent behavior. If the consumer does not agree to authorize the disclosure of any or all of the information required on this form, please write "*Consumer does not authorize the release of this information*" in each of the appropriate section(s) of the Form.

WHAT ARE THE SOURCES OF INFORMATION FOR COMPLETING THE FORM? Please write any information that you believe is relevant in the appropriate section. Obviously, if it comes from the consumer himself or herself or is in the consumer's record, it should be included. You should also include anecdotal or unsubstantiated information to the extent that you have concluded that it is relevant to a home care provider's services to protect the individual and others from harm. This information should be specifically presented on the form as unsubstantiated and should be described as fairly as possible.

WHAT IF THERE IS NO KNOWN INFORMATION? If there is absolutely no information available, please write, "*No information is known*" for each relevant section. **Do not leave a section blank.**

DISCLOSURE TO HOME PROVIDERS/RESPIRE WORKERS

_____ or _____ on behalf of
Consumer's name Guardian's name
_____ has / has not consented in writing to disclosure of this information to:
Consumer's name (circle one)

Name: _____ Name: _____
Name: _____ Name: _____

Confidentiality Requirements

All the information in this notice must be kept confidential and not disclosed to anyone other than a respite provider, unless the consumer consents to the disclosure or a court orders disclosure. If the consumer has a legal guardian, or is an unemancipated minor, the guardian or parent must give the authorization. This means that you can only discuss this information with members of the consumer's treatment team, but not with anyone else. It also means that you have a responsibility to keep this document, and any other written documents containing the consumer's health care information, in a secure place where other people will not accidentally see it. You have a legal responsibility to keep this information confidential even if you choose not to provide home care for the consumer. In the event the consumer leaves your care, this information must be returned to the agency. If you violate the consumer's right to confidentiality, you may be fined up to \$2,000 or imprisoned for not more than one year [18 VSA, § 7103 (c)].

Disclosure to Respite Providers

If you retain a respite provider to provide care by the day or overnight in the respite provider's home, then you must give the provider the information that is needed to protect the consumer or others from harm, while the consumer is in the respite home. You may share the information verbally or by giving the respite provider this form for the duration of the client's stay. However, you should not make any copies of this form for a respite provider to keep.

Relevant Information

1) Prescription medications and dosage (*Can attach Emergency Fact Sheet or Medication Sheet if all medications are included there*)

2) Relevant information / history of violent behavior or conduct that has caused danger of harm to others, that is known by the Agency and/or is in the individual's clinical record. (Must include, *but not be limited to*, any criminal history of violence¹; history of sexual abuse or relevant physical harm towards others; other violent behavior resulting in involuntary hospitalization or

¹ Criminal history of violence includes being charged with or convicted of: aggravated assault, aggravated stalking, aggravated sexual assault, assault & robbery, simple assault, assault upon law enforcement, cruelty to children, domestic assault, elderly abuse, abuse of a person with a disability, extortion, hate motivated crime, kidnapping, lascivious conduct, L&L with a child or adult with disability, manslaughter, murder, sexual assault, stalking, and sexual assault on a minor, arson, recklessly endangering another person while driving.

commitment). "Relevant" information includes past actions you think might predict or indicate the likelihood that this person will cause future harm.

- 3) Any known warning signs of dangerous behavior towards others (for example, alcohol or drug use, failure to take medications as prescribed, behavioral signs and symptoms). *(Can attach Behavioral Support Plan, Emergency Fact Sheet or Medication Sheet if relevant information is included)*

- 4) Any relevant information needed to protect the consumer from harm (for example, people who have victimized or endangered the individual, behaviors that may indicate possible future self-injurious behavior, level of supervision needed). *(Can attach Behavioral Support Plan, Emergency Fact Sheet or Medication Sheet if relevant information is included)*

Signature of Agency Staff Member

Date

Signature of Home / Respite Provider

Date

I consent to this placement even though the Consumer / Guardian has not authorized sharing information that the DA/SSA believes is relevant.

Signature of Home / Respite Provider

Date