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January 10, 2012

Courtney E. Burke
Commissioner
New York State Office for People with Developmental Disabilities
44 Holland Avenue
Albany, New York 12229

RE: NYS IG 0910-031-2011

Dear Commissioner Burke:

On August 22, 2011, the Inspector General received a complaint from an individual who requested confidentiality concerning [REDACTED] a Developmental Aide assigned to the Broome Developmental Disabilities Services Office of the Office for People with Developmental Disabilities. The complaint alleged that [REDACTED] had: (1) disclosed information to an acquaintance about a Broome DDSO consumer who had recently died, and (2) sent text messages and images from her cellular telephone while on duty within the facility to this acquaintance, one of which contained a photograph of [REDACTED] in a facility bathroom. The complainant provided the Inspector General with a copy of the images at issue.

The Inspector General's investigation found no evidence to support the claim that [REDACTED] had disclosed confidential patient information. The complainant, who was interviewed by the Inspector General, was unable to provide any specific information about the substance of [REDACTED] purported disclosure. [REDACTED] testified that she had told an ex-boyfriend that a consumer she oversaw had died, but only mentioned the consumer's first name and provided no other details.

Regarding the claim that [REDACTED] sent text messages and images from her cellular telephone while on duty, the Inspector General found evidence that [REDACTED] sent at least one image via her cellular telephone while in the facility. [REDACTED] testified to this fact, but claimed she was on a work break at the time the image was sent. However, this testimony appears to be contradicted by the fact that the image was taken in the consumers' bathroom and [REDACTED] was wearing a latex glove, indicating she was working

at the time. With respect to the other image, [REDACTED] testified she sent it to her ex-boyfriend from her home, not while on duty at the facility. No evidence was developed to refute her explanation.

[REDACTED] use of her cell phone while on duty appears to violate Broome DDSO Personnel Memorandum 2009-14 (issued November 24, 2009), which reads, "Use of a personal cellular telephone, including text messaging, camera/video options . . . is not allowed nor appropriate at the work site except during breaks and duty free periods . . . It is expressly forbidden to use cell phones . . . during work hours. . . ." Moreover, as was recently discussed with you, cell phones pose a risk in these types of facilities. In light of this, we recommend that you review agency policy concerning possession and use of cell phones on facility premises.

The Inspector General is therefore referring this matter to your office for review and consideration of appropriate action. We request that within 30 days you advise us of any action or decision taken.

If you have any question regarding our investigation, please contact me at (518) 474-1010.

Sincerely,

[REDACTED]

Leonard A. Cohen
Chief Counsel

cc: Anthony Bruno
OPWDD Director of Investigation and Internal Affairs