
NEW YORK STATE

REGISTER

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The last date for submission of public comments is indicated on each Notice of Proposed Rule Making. Unless a different date is specified by statute, the proposing agency must accept comments for at least: 60 days after the date of *Register* publication of a Notice of Proposed Rule Making or combined Notice of Emergency Adoption and Proposed Rule Making; and 45 days after publication of a Notice of Revised Rule Making or combined Notice of Emergency Adoption and Revised Rule Making. When a public hearing on a proposed rule is statutorily required: the hearing may not be held until at least 60 days after the publication date of the notice; and comments must be accepted for at least 5 days after the last required hearing. When a public comment period for a proposed rule is scheduled to end on a Saturday, Sunday or public holiday, comments are accepted through the next succeeding business day.

For notices published in this issue:

- the 60-day period expires on April 27, 2025
- the 45-day period expires on April 12, 2025
- the 30-day period expires on March 28, 2025

**KATHY HOCHUL
GOVERNOR**

**WALTER T. MOSLEY
SECRETARY OF STATE**

NEW YORK STATE DEPARTMENT OF STATE

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trative Review even though total project costs exceed \$30 million, if: (a) total project costs do not exceed 10 percent of the total operating costs of the facility for the year ended two years prior to the submission of the application; and (b) total project costs do not exceed \$100 million for a general hospital or \$25 million for all other facilities.

Section 710.1(c)(5) identifies construction projects subject to "Limited Review," which generally include projects with costs that do not exceed \$15 million for a general hospital and \$6 million for all other facilities. Pursuant to section 710.1(c)(5)(ii), Limited Review also applies to non-clinical projects involving heating, ventilating, air conditioning, plumbing, electrical, water supply and fire protection systems where such projects involve the modification or alteration of clinical space, services, or equipment.

Section 710.1(c)(4) provides that certain construction projects do not require review but require written notice to the Department. Such projects include non-clinical infrastructure projects (other than projects affecting clinical space, which would require limited review as noted above).

Needs and Benefits:

Over the years, the Department has periodically refined the Certificate of Need process to ensure that it continues to advance its objectives, is responsive to a changing health care environment, focuses Department and PHHPC resources on issues and projects with the greatest impact, and is as streamlined and expeditious as possible within the parameters of the statutory authority.

In furtherance of these goals, Governor Hochul recognized in her 2024 State of the State that health care providers face administrative barriers when seeking to modernize and invest in their facilities, including specifically the Certificate of Need process. Governor Hochul thus directed the Department to review and amend the Certificate of Need process, including raising the cost thresholds for projects, stating that such reforms will reduce red tape and approval times for more rapid modernization of the State's health care infrastructure.

This proposal will raise monetary thresholds determining the level of review for clinical projects as well as the threshold for when certain projects require written notice. The proposal also focuses on specific services and projects and the level of review required by current regulations, with the goal of avoiding, among things, subjecting certain services and projects to unnecessary levels of review.

Project costs thresholds for certificate of need applications will shift from over \$15 million for a general hospital and \$6 million for all other facilities to over \$30 million for a general hospital and \$8 million for all other facilities.

Project cost thresholds were last raised in 2017; construction costs have more recently increased substantially. The amounts included in the proposal reflect an appropriate balance between the increased construction costs for large-scale projects and the desire to maintain sufficient oversight while reducing administrative barriers.

Certain review levels for some previously identified types of services and projects have been eliminated as they no longer require special consideration due to medical advancements. These projects will now be reviewed according to dollar cost thresholds and general provisions regarding impact on a facility's operating certificate.

The measures included in this streamlining initiative will continue to reflect the overall objective of the statutory and regulatory framework, as set forth in 10 NYCRR section 710.1(a), to help ensure that medical facilities are planned to achieve efficiency and economy of operation and care of high quality. At the same time, it will help support regulated providers in meeting heightened demands to be increasingly agile given ongoing health system reform and evolving trends in medicine, requirements and promote flexibility that supports efficiency and innovation.

COSTS:

Costs to Private Regulated Parties:

The proposed amendments will not increase costs for private entities subject to the requirements of PHL Article 28 and in fact are expected to have a favorable fiscal impact. Some applicants either would no longer need to submit a Certificate of Need application or would need to prepare a less complex application, meaning that they will pay less in construction fees associated with an application, which are required in higher amounts for applications requiring higher levels of review. These changes also should expedite the time for approval of projects and therefore minimize costs related to construction delays.

Costs to Local Government:

This proposal will not impact local governments unless they operate a hospital, in which case they are likely to experience decreases in costs as noted above with respect to private entities.

Costs to the Department of Health:

This proposal is not anticipated to have a major fiscal impact on the Department. The annual impact on Certificate of Need construction fee revenues is entirely dependent on the total project costs and types of projects submitted and how many of them might fall within the narrow bands

of cost threshold changes and programmatic changes proposed. As such, the impact would vary from year to year. Based on experience, the Department estimates the potential impact of this proposal to be in the range of \$200,000 to \$450,000 in reduced fee revenue out of \$8 million to \$12 million in total fees annually.

Costs to Other State Agencies:

The proposed regulatory changes will not result in additional costs to other State agencies.

Local Government Mandates:

The proposed regulatory amendments do not impose new programs, services, duties or responsibilities upon any county, city, town, village, school district, fire district, or other special district.

Paperwork:

The proposed amendments will impose no new reporting requirements, forms or other paperwork. The amendments will reduce paperwork by shifting projects to lower levels of review or removing the requirement for the filing of a Certificate of Need application with respect to certain projects.

Duplication:

This rule does not duplicate any other law, rule, or regulation.

Alternatives:

The Department considered other monetary thresholds but ultimately determined that the amounts included in the proposal reflect an appropriate balance between the recognition of increased construction costs for large-scale projects and the desire to maintain sufficient oversight for purposes of promoting high quality services aligned with community need.

Federal Standards:

The proposed amendments do not exceed any minimum standards of the Federal government. There are no Federal rules currently addressing the Certificate of Need process.

Compliance Schedule:

These regulations will be effective upon publication of a Notice of Adoption in the New York State Register and would apply to all construction applications submitted thereafter.

Consequently, regulated parties should be able to comply with the proposed regulation as of its effective date.

Regulatory Flexibility Analysis

No regulatory flexibility analysis is required pursuant to section 202-(b)(3)(a) of the State Administrative Procedure Act. The proposed rule will not have a substantial adverse impact on small businesses or local governments.

Rural Area Flexibility Analysis

No rural area flexibility analysis is required pursuant to section 202-bb(4)(a) of the State Administrative Procedure Act. The proposed amendments will not impose an adverse impact on facilities in rural areas, and will not impose reporting, record keeping or other compliance requirements on facilities in rural areas.

Job Impact Statement

No job impact statement is required pursuant to section 201-a(2)(a) of the State Administrative Procedure Act. No adverse impact on jobs and employment opportunities is expected as a result of this proposed regulation.

Division of Homeland Security and Emergency Services

INFORMATION NOTICE

New York State Interoperable and Emergency Communication Board

Notice of Adoption of Minimum Standards for Public Safety
Answering Points

The New York State Interoperable and Emergency Communication Board, established pursuant to County Law § 326, is charged with assisting local governments, service suppliers, wireless telephone service suppliers and appropriate state agencies by facilitating the most efficient and effective routing of wireless 911 emergency calls; developing minimum standards for public safety answering points; promoting the exchange of information, including emerging technologies; and encouraging the use of best practice standards among the public safety answering point community. The Board is exempt from the requirements of the New York State Administrative Procedure Act, but is required to publish its proposed and final standards pursuant to the provisions of County Law § 327(5). This Notice is published pursuant to those provisions.

Summary of Amendments: At its meeting on August 14, 2024, the Board proposed a revision to minimum standards in 21 NYCRR Parts 5200, 5201, 5202, 5203, and 5250 regarding direct dispatch of emergency services; training and qualifications; staffing and operations; equipment, facilities, and security; and jurisdictional protocols for public safety answering points. The existing standards were to be repealed and replaced with the revised standards. The revisions were to modernize the existing standards, taking into account changes in practices, expectations, and technologies since the last update to the standards. Additionally, the title of 21 NYCRR Chapter LX would be revised from “New York State 911 Board” to “New York State Interoperable and Emergency Communication Board,” to match the current name of the Board. The Notice of Proposed Amendments was published in the November 6, 2024 issue of the Register. Following a period of public comment the Board, at its Meeting of January 29, 2025, adopted the final standards. The final standards have minor clarifications of the specialty training requirements applicable to certain roles, specifying that training requirements apply to personnel newly assigned to those roles. All other portions are identical to the proposed standards.

Some of the comments received by the Board came from entities that are not required to comply with the standards. The standards apply to State and local public safety answering points as defined by County Law Section 325, which are sites designated and operated by a governmental entity for the purpose of receiving emergency calls from customers of a wireless telephone service supplier.

Additional comments noted that their agencies may have difficulty coming into compliance with the standards due to timing, funding, or staffing. The standards include a process for requesting variances on the basis of unnecessary hardship and the implementation of alternative measures to meet the objectives of the standards.

The text of the adopted standards is available at the Division of Homeland Security and Emergency Services Website: <https://www.dhSES.ny.gov/state-interoperable-and-emergency-communication-siec-board>

Office for People with Developmental Disabilities

NOTICE OF ADOPTION

Pathway to Employment

I.D. No. PDD-31-24-00001-A

Filing No. 174

Filing Date: 2025-02-11

Effective Date: 2025-04-01

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of Subpart 635-10 of Title 14 NYCRR.

Statutory authority: Mental Hygiene Law, sections 13.07, 13.09(b) and 16.00

Subject: Pathway to Employment.

Purpose: To update the pathway to employment regulations as NY becomes an employment first State.

Text of final rule: Repeal existing subdivision 635-10.4(h) and replace as follows:

(h) Pathway to Employment.

Pathway to Employment is a time-limited, person-centered, comprehensive career and vocational planning and support service. The goal of this service is to help individuals in developing a vocational plan with an identified career path to obtain competitive integrated employment in the future. This habilitative service uses an individualized career and vocational planning process to identify the individual’s vocational strengths and goals, which includes community vocational experiences and support services.

The outcome of Pathway to Employment is a career, vocational and transition plan document which includes the next steps for achieving self-employment or competitive, integrated employment at or above the State or Federal minimum wage.

(1) Allowable Services.

The Pathway to Employment service consists of specific allowable services. Allowable services must be provided directly to and/or on behalf

of an individual. This may include providing the services remotely if that is not the only service delivery method. Allowable Pathway to Employment services include:

(i) vocational assessment, discovery activities, person-centered planning, job-related experiential learning, and career exploration;

(ii) assessment and instruction in the use of remote and assistive technology to increase independence in the workplace;

(iii) development and planning community-based vocational experiences (paid or unpaid), including analysis, customization, carving, and negotiating, training or orienting employers on behalf of an individual or group of individuals;

(iv) training, orientation, and systematic instruction including career-specific skills instruction prior to and during the community-based vocational experiences;

(v) job coaching;

Final rule as compared with last published rule: Nonsubstantial changes were made in section 10.4(h)(6)(v).

Text of rule and any required statements and analyses may be obtained from: Jillian Sauer, Office for People With Developmental Disabilities, 44 Holland Avenue, Albany, NY 12209, (518) 474-7700, email: rau.unit@opwdd.ny.gov

Additional matter required by statute: Pursuant to the requirements of the State Environmental Quality Review Act, OPWDD, as lead agency, has determined that the action described herein will have no effect on the environment and an E.I.S. is not needed.

Revised Regulatory Impact Statement

1. Statutory Authority:

a. OPWDD has the statutory responsibility to provide and encourage the provision of appropriate programs, supports, and services in the areas of care, treatment, habilitation, rehabilitation, and other education and training of persons with intellectual and developmental disabilities, as stated in the New York State (NYS) Mental Hygiene Law Section 13.07.

b. OPWDD has the authority to adopt rules and regulations necessary and proper to implement any matter under its jurisdiction as stated in the NYS Mental Hygiene Law Section 13.09(b).

c. OPWDD has the statutory authority to adopt regulations concerned with the operation of programs and the provision of services, as stated in the NYS Mental Hygiene Law Section 16.00. The regulation also ensures compliance by OPWDD certified and operated residences with the proper provision of services. Supported Employment is a program provided by OPWDD.

2. Legislative Objectives: The proposed regulations further legislative objectives embodied in sections 13.07, 13.09(b), and 16.00 of the Mental Hygiene Law. The regulation amends Subparts 635-10 regarding Pathway to Employment.

3. Needs and Benefits: The proposed regulation repeals and replaces 14 NYCRR 635-10.4(h) and 635-10.5(ad) to define what Pathway to Employment Services are, expand the types of allowable services providers can bill for, set eligibility criteria for individuals to access Pathway to Employment services, set limits of Pathway to Employment services, and describe when such services may be delivered. This section was re-ordered in order to match other employment and vocational services. As a result, the allowable services are more understandable and more clearly defined for recipients and providers.

Additionally, the regulations require community-based vocational experiences for individuals receiving Pathway to Employment services, an integral part of assisting an individual identify a career path. The regulations require the completion of a Career, Vocational, and Transition Plan which will help the individual identify the service(s) needed for them to gain competitive integrated employment. The provider community has been a large part of the development of these regulations which eases some administrative burden. Additionally, the new regulations reduce administrative tasks by streamlining documentation and eliminating tracking of indirect hours which will help individuals get quality vocational services in a timelier manner. Lastly, the regulation sets requirements about provider billing, staff training requirements, and documentation of service provision. These changes will help support providers and individuals with developmental disabilities seeking employment as New York becomes an employment-first state.

4. Costs: The proposed regulation is expected to have no additional costs to OPWDD. There will be no increase in costs to local governments. Furthermore, OPWDD expects that there will be no cost to private regulated parties as a result of this regulation. While providers will be able to choose to bill for a wider array of services, the services have been reclassified and the services are not expected to add costs to OPWDD or Medicaid.

5. Local Government Mandates: There are no new requirements imposed by the rule on any county, city, town, village; or school, fire, or other special district. Additionally, no local government units provide these services.