Millennium COLLABORATIVE CARE

Summary of Waiver Requests

Citation(s)/Regulation(s)	Request	Request ID(s)	Relevant Project(s)
10 NYCRR 600.9	Prohibitions Against Fee-Splitting: Approved	48.29	2.a.i
10 NYCRR 94 10 NYCRR 707 10 NYCRR 405.2(a)	OASAS Providers: Approved	48.36	2.a.i
10 NYCRR 405.9 10 NYCRR 400.9 10 NYCRR 400.11 10 NYCRR 700.3 10 NYCRR 415.38 18 NYCRR 505.20 18 NYCRR 540.5 14 NYCRR 36.4, 1	Integrated Services: Additional information needed	48.33	2.a.i
10 NYCRR 709.8(b)(4)	BMT Beds: Approved	R2-10	2.a.i
10 NYCRR 405.30(b)(3)	Transplant Volume: More Information needed	R2-11	2.a.i
10 NYCRR 406.1	Swing Beds: Denied	R2-16	2.a.i
10 NYCRR 709.3	Residential Health Care Facility Beds: Waiver not needed	R2-18	2.a.i
10 NYCRR 600	Construction Projects: Approved	48.24, 48.25, 48.26, 48.27, 48.28	2.a.i, 2.b.iii, 2.b.vii, 3.a.i, 3.a.ii
10 NYCRR 709.3	Swing Beds: No waiver needed	R2-1	2.a.i, 2.b.vii, 3.a.i
14 NYCRR 822 14 NYCRR 841	Article 32 Home/Off-Site Visits: Approved	48.38, 48.39	2.a.i, 2.b.viii
14 NYCRR 599.4(r) (ab)	Article 31/32 Clinic Reimbursement for Primary Care Services: Approved solely with respect to 14 NYCRR 599.4(r) and (ab). See DSRIP Project 3.a.i Licensure Threshold Model, p. 28	48.40, 48.41	2.a.i, 3.a.i
10 NYCRR 94.2	Physician Assistants: Denied	48.42, 48.43	2.a.i, 3.a.ii
Article 30, Section 3002-A-2(c)	Approval of Protocols: Not applicable as a regulatory waiver was not requested	48.45	2.b.iii

Citation(s)/Regulation(s)	Request	Request ID(s)	Relevant Project(s)
Alternate Site/Transport Methods New York State (BLS) Protocol Reimbursement for Transportation	Limitations on Approved Transport Methods and Transport Destinations: Not applicable Reimbursement for Community Paramedicine: Denied	48.46, 48.47	2.b.iii
10 NYCRR 405.15	PA/NP Oversight of Contrast Medium Use in ED: Denied	R3-1	2.b.iii
10 NYCRR 710.1	Public Need and Financial Feasibility CON: Approved.	R2-15	2.b.iii
10 NYCRR 400.11 10 NYCRR 415.26	SNFs Patient Review Instrument (PRI): Approvable on a case-by-case basis SCREEN requirement: Denied	48.07, 48.08	2.b.iii, 2.b.vii
18 NYCRR 540.6(4)	Physician Assistants and Nurse Practitioners in SNFs: Approved	48.03	2.b.vii
10 NYCRR 760.5	Determinations of Public Need: More information needed	48.01	2.b.vii
10 NYCRR 415.3 10 NYCRR 415.4	Nursing Home Transfers: More information needed	48.20	2.b.vii
Section 2802-a of PHL amended by Chapter 58	Transitional Care Units: Denied	R2-4	2.b.vii
10 NYCRR 67-1.3	Addition of EPOC Electronic Point of Care Technology: Denied	R2-5	2.b.vii
18 NYCRR 505.9	Telemedicine/Telehealth: Denied	48.04, 48,05	2.b.vii, 2.b.viii
10 NYCRR 405.1 10 NYCRR 600 10 NYCRR 710	Certificate of Need: No waiver needed	48.12, 48.13	2.b.vii, 2.b.viii
10 NYCRR 401.3 10 NYCRR 710	Bed Capacity: Approved	48.09, 48.10, 48.11	2.b.vii, 2.b.viii, 3.a.i
10 NYCRR 401.1 10 NYCRR 401.2(b)	Practitioner Home Visits: Approved	48.16	2.b.viii
10 NYCRR 760.5	Determinations of Public Need: Determination pending	48.02	2.b.viii
10 NYCRR 763.7	Home Care Orders by Nurse Practitioners and Physician Assistants: Denied	48.21	2.b.viii
10 NYCRR 766.5	Home Health Aide Supervision: No waiver needed	48.22	2.b.viii
10 NYCRR 763.5(a)	Initial Patient Visit within 48 Hours: Approved	R2-13	2.b.viii
10 NYCRR 401.1 10 NYCRR 401.2(b)	Off-Site Services or Home Visits: Approved	R2-19	2.b.viii
NYS Physical Therapy 6738 Ciii (iii)	Supervision by Licensed Physical Therapists: Denied	R2-12	2.b.viii

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Citation(s)/Regulation(s)	Request	Request ID(s)	Relevant Project(s)
10 NYCRR 763.4(h)(6)	Licensing Required for Supervising Home Health Aides: No waiver needed	R2-14	2.b.viii
10 NYCRR 86-4.9(b)	Billing/Integrated Services: Approved solely with respect to 14 NYCRR 599.4(r) and (ab). See DSRIP Project 3.a.i Licensure Threshold Model, p. 28.	48.15	3.a.i
10 NYCRR 83	Co-location/Shared Space: Approved solely with respect to 14 NYCRR 599.4(r) and (ab). See DSRIP Project 3.a.i Licensure Threshold Model, p. 28.	48.30	3.a.i
14 NYCRR 77	Physical Plant Standards for Behavioral Health Facilities: Approved solely with respect to 14 NYCRR 599.4(r) and (ab). See DSRIP Project 3.a.i Licensure Threshold Model, p. 28.	48.37	3.a.i
14 NYCRR 599.4(r) (ab)	Licensure Threshold: Approved solely with respect to14 NYCRR 599.4(r) and (ab). See DSRIP Project 3.a.i Licensure Threshold Model, p. 28.	R2-9	3.a.i
10 NYCRR 405.9 10 NYCRR 400.9 10 NYCRR 400.11 10 NYCRR 700.3 10 NYCRR 415.38 18 NYCRR 505.20 18 NYCRR 540.5 14 NYCRR 36.4 and 1	Integrated Services: Approved solely with respect to 14 NYCRR 599.4(r) and (ab). See DSRIP Project 3.a.i Licensure Threshold Model, p. 28.	48.34, 48.35	3.a.i, 3.a.ii
14 NYCRR 510 14 NYCRR 520 14 NYCRR 803 14 NYCRR 804	Accessing or Correcting OMH Record: Denied	48.31, 48.32	3.a.i, 3.a.ii
18 NYCRR 505.9	Telemedicine/Telehealth: Approved solely with respect to 14 NYCRR 599.4(r) and (ab). See DSRIP Project 3.a.i Licensure Threshold Model, p. 28.	48.06	3.a.ii
10 NYCRR 405.19	Increase Number of Observation Beds: No waiver needed Allow Observation Unit Stay to 48 Hours: Approved	48.19	3.a.ii
10 NYCRR 712-1.7	Psychiatric Units: More information needed	R2-17	3.a.ii
10 NYCRR 34	Physician Self-Referral: Denied	48.44	3.b.i
10 NYCRR 83 10 NYCRR 401.1 10 NYCCR 700.2 (a)(22) 10 NYCRR 703.6	Co-Location/Shared Space: Determination pending	R2-2, R2-6, R2-7, R2-8	3.f.i, 4.d.i

Citation(s)/Regulation(s)	Request	Request ID(s)	Relevant Project(s)
14 NYCRR 599.4(r) (ab)			
10 NYCRR 405.3 10 NYCRR 600.9	Revenue Sharing: Approved Administrative Services: No waiver needed Management Contracts: Denied	48.14	
10 NYCRR 401.1 10 NYCRR 700.2(a)(22) 10 NYCRR 703.6	Restrictions on Part Time Clinics: Approved	48.17	
10 NYCRR 400.9 10 NYCRR 400.11 10 NYCRR 405.9 10 NYCRR 415.38 10 NYCRR 700.3 18 NYCRR 5	Admission, Discharge and Transfer: No waiver needed	48.18	
10 NYCRR 708.3 10 NYCRR 401.3(g)	Bed and Service Relocations: No waiver needed Facility Closure: Denied	48.23	
Sections 2962, 2970, 2971 of PBH Law	Allow NPs and PAs to Sign MOLST Forms: Denied	R2-3	

APPROVED WAIVERS

18 NYCRR 540.6(4)	Request #48.03 Physician Assistants and Nurse Practitioners in SNFs
Project(s)	2.b.vii
PPS Request	Implementation of the INTERACT protocol and reducing transfers to the ER/Hospital. Waiver or medication of this regulation would encourage facilities to employ physician assistants and nurse practitioners because it would allow them to keep Medicare Part B offset funds that would normally be taken away from the Medicaid rate. PAs/NPs would allow the facilities to support an ever increasing acuity of patients and fully operationalize the INTERACT project.
DOH/OMH/OASAS Response	Approved.
18 NYCRR 505.9	**Request #48.06 Telemedicine/Telehealth**
Project(s)	3.a.ii
PPS Request	Would allow psychiatrists to be reimbursed for remote consultation with patients in the community and in their homes reducing hospital transfers. This waiver would allow for specialists to reach a higher volume of patients throughout the day than would normally occur if patients required transportation or the specialist needed to travel between facilities. It would allow for specialists to be reimbursed for this care, lending to system transformation and viability exceeding the five years of DSRIP. Current regulations do not allow telemedicine reimbursement in most circumstances, which impedes the ability of specialists to utilize the efficiency of such a model.
DOH/OMH/OASAS Response	Integrated services. Approved solely with respect to 14 NYCRR 599.4(r) and (ab). See DSRIP Project 3.a.i Licensure Threshold Model, p. 28.

10 NYCRR 400.11 10 NYCRR 415.26	**Requests #48.07, 48.08 SNFs and Patient Review Instrument (PRI)**
Project(s)	2.b.iii , 2.b.vii
PPS Request	• Expedite transfer to SNF from ER to divert hospital admissions for patients with higher acuity but do not require acute care. The PRI requirement as it stands today can prolong admission in the hospital and delay transfer to an SNF. Coordination of appropriate professionals to screen with PRI increases cost and time patients spend in hospital or ER awaiting transfer. Waiving this regulation could allow SNFs to more quickly review a patient and transfer them from the ER or community, reducing hospitalizations. • Would allow SNFs to receive transfers quicker without waiting for qualified PRI screener, could divert ER to hospital secondary to decreasing wait time for transfer. Also expedite the process for SNFs that border Pennsylvania, where PRI screening regulations vary. The PRI requirement as it stands today can prolong admission in the hospital and delay transfer to an SNF. Coordination of appropriate professionals to screen with PRI increases cost and time patients spend in hospital or ER awaiting transfer. Waiving this regulation could allow SNFs to more quickly review a patient and transfer them from the ER or community, reducing hospitalizations.
DOH/OMH/OASAS Response	• PRI requirement. Approvable on a case-by-case basis. 10 NYCRR 400.11(a) requires Hospital/Community PRI or PRI as well as the SCREEN. We will waive the PRI requirement in 400.11(a) on a case-by-case basis provided that the provider notify, and obtain approval from, the Department for an alternative screening tool. • SCREEN requirement. Denied. We cannot waive the SCREEN portion of this regulation or the credentialing requirements for the person who completes the SCREEN as this is a federal requirement.
10 NYCRR 401.3 10 NYCRR 710	**Requests #48.09, 48.10, 48.11 Changes in Existing Medical Facilities**
Project(s)	2.b.vii, 2.b.viii, 3.a.i
PPS Request	The application and approval process for changes to existing facilities may need to be waived for implementation of several projects, including 2.b.vii (INTERACT), 2.b.viii (Hospital- Home Care Collaboration) and 3.a.i (Integration of Primary and Behavioral Services). The PPS will develop detailed requests for regulatory waivers as project plans are developed. Plans will ensure that patient safety is considered and addressed in any scenario where a regulatory waiver is sought.
DOH/OMH/OASAS Response	Bed Capacity. Approved. The PPS requested waivers of 10 NYCRR 401.3, and 710 pertaining to the CON process for changes in bed capacity. Regulations requiring that bed capacity increases be subject to a full CON review are waived. These requests are approved, provided that the facility submit a limited review application for decreases in bed capacity and an administrative review application for increases in bed capacity. The Department will expedite all applications related to DSRIP projects.

10 NYCRR 405.3 10 NYCRR 600.9	**Request #48.14** **Management Contracts and Sharing of Revenue**
Project(s)	N/A
PPS Request	It is anticipated that certain arrangements entered into by PPS hospitals could be deemed "management contracts" requiring prior Department approval. As the intended arrangements are developed specific requests for waiver may be submitted.
DOH/OMH/OASAS Response	• Revenue Sharing. Approved. The PPS requested a waiver of 10 NYCRR § 600.9, pertaining to revenue sharing. The waiver is approved to the extent that the regulation otherwise would prohibit providers from receiving DSRIP incentive payments distributed by the PPS Lead. • Administrative Services. No waiver needed. The PPS requested waivers of 10 NYCRR §§ 600.9 and 405.1(c). No waiver is needed to the extent the PPS is performing administrative functions for purposes of administering PPS activities. However, if the PPS is performing functions described in 10 NYCRR § 405.1(c) and thus acts as the active parent of another entity, it will require establishment as set forth in § 405.1(c). • Management Contracts. Denied. The PPS requested waivers of 10 NYCRR § 405.3 and 600.9 regarding management contracts. The Department has determined that it will need to review each management contract to ensure that the contracting agency is not acting as a governing body.
10 NYCRR 86-4.9(b)	**Request #48.15** **Billing/Integrated Services**
Project(s)	3.a.i
PPS Request	To support the integration of primary care and behavioral health, providers may require waiver of regulations that restrict them from generating more than one threshold visit bill per day to support the costs of multiple providers of service. While we acknowledge that these regulations may not be eligible for waiver at this time, we wanted to note the issue.
DOH/OMH/OASAS Response	Integrated services. Approved solely with respect to 14 NYCRR 599.4(r) and (ab). See DSRIP Project 3.a.i Licensure Threshold Model, p. 28.

10 NYCRR 401.1 10 NYCRR 401.2(b)	**Request #48.16** **Practitioner Home Visits**
Project(s)	2.b.viii
PPS Request	Under current regulation operating certificate holders, except in limited circumstances, may not provide services off site, including services at patients' homes. Article 28 hospitals and D&T Centers within the PPS request waiver of applicable regulations to permit home visits for outpatient departments of such Article 28 hospitals and D&T Centers.
DOH/OMH/OASAS Response	Off-Site Services or Home Visits. Approved. The PPS requested waivers of 10 NYCRR § 401.2(b) for the purpose of allowing practitioners affiliated with Article 28 providers to provide services outside of the certified service site. The request is approved, contingent upon notification by the PPS of the specific providers, practitioners and services. However, reimbursement for the provision of such services would not be available absent approval of a State Plan Amendment (SPA) to the State Medicaid Plan and associated state regulations, both of which are being pursued by the Department. The Department will explore, through Value- based Payment options, incorporating more flexibility for home visits, telemedicine and team visits.
10 NYCRR 401.1 10 NYCRR 700.2(a)(22) 10 NYCRR 703.6	**Request #48.17** **Restrictions on Part Time Clinics**
Project(s)	Various
PPS Request	An Article 28 facility providing services off site may only do so in an extension or part time clinic. Part time clinics are limited to low-risk procedures and examinations and may not operate for more than 60 hours per month. The PPS may require flexibility with respect to part time clinics. The scope of the waiver required will become more evident as projects are planned in detailed.
DOH/OMH/OASAS Response	Off-Site Clinics. Approved. Extension clinics may operate for less than 60 hours per month and offer a full complement of services. Review for public need and financial feasibility for CON applications for extension clinics will be waived.
10 NYCRR 405.19	**Request #48.19** **Observation Services**
Project(s)	3.a.ii
PPS Request	It is anticipated that flexibility will be needed for use of observation services in connection with this project, including the physical space requirements and an expansion of the maximum observation unit stay from 24 to 48 hours.
DOH/OMH/OASAS Response	• Observation Beds. No waiver needed. The PPS requested waivers in connection with observation beds. No regulatory waiver is needed for a provider to increase its number of observation beds; however, the provider must follow construction standards if applicable. • Observation Beds. Approved. We will waive 405.19 to allow observation unit stay to 48 hours.

10 NYCRR 600	Requests #48.24, 48.25, 48.26, 48.27, 48.28 Construction Projects
Project(s)	2.a.i, 2.b.iii, 2.b.vii, 3.a.i, 3.a.ii
PPS Request	The PPS requests that the level of CON review for construction related to the above projects be limited to architectural review, with an expedited review process and requests that the PPS be permitted to self-certify for architectural and other code compliance to expedite PPS projects.
DOH/OMH/OASAS Response	Public Need and Financial Feasibility. Approved. The PPS requested waivers with respect to the public need and financial feasibility components of the CON process. Waivers are approved for 10 NYCRR §§ 670.1, 709 and 710.2, however, that: • No waiver is available for establishment applications. • Only the public need and financial feasibility components of the CON process are waived, meaning that a construction application still needs to be filed through NYSE-CON and provider compliance will still be reviewed. • No waiver is available for specialized services, CHHA service area expansions, and hospital and NH bed increases, which will be determined on a case-by-case basis.
10 NYCRR 600.9	**Request #48.29 Prohibitions Against Fee-Splitting**
Project(s)	2.a.i
PPS Request	The PPS requests that the level of CON review for construction related to the above projects be limited to architectural review, with an expedited review process and requests that the PPS be permitted to self-certify for architectural and other code compliance to expedite PPS projects.
DOH/OMH/OASAS Response	Revenue Sharing. Approved. The PPS requested a waiver of 10 NYCRR § 600.9, pertaining to revenue sharing. The waiver is approved to the extent that the regulation otherwise would prohibit providers from receiving DSRIP incentive payments distributed by the PPS Lead.
10 NYCRR 83	**Request #48.30 Co-location (Shared Health Facilities); Shared Space (Two or More Providers)**
Project(s)	3.a.i
PPS Request	There are a numerous restrictions on co-location and agency approvals required for co- located services that will need to be waived or modified in order to efficiently implement this project.
DOH/OMH/OASAS Response	Integrated services. Approved solely with respect to 14 NYCRR 599.4(r) and (ab). See DSRIP Project 3.a.i Licensure Threshold Model, p. 28.

10 NYCRR 405.9 10 NYCRR 400.9 10 NYCRR 400.11 10 NYCRR 700.3 10 NYCRR 415.38 18 NYCRR 505.20 18 NYCRR 540.5 14 NYCRR 36.4 and 1	**Requests #48.34, 48.35 Integrated Services**
Project(s)	3.a.i, 3.a.ii
PPS Request	Currently, various agencies have rules and regulations governing patient transitions. These processes must be waived or streamlined in an integrated environment. The specific waiver needs will become more apparent as project plans are developed.
DOH/OMH/OASAS Response	Integrated services. Approved solely with respect to14 NYCRR 599.4(r) and (ab). See DSRIP Project 3.a.i Licensure Threshold Model, p. 28.
10 NYCRR 94 10 NYCRR 707 10 NYCRR 405.2(a)	**Request #48.36 OASAS Providers**
Project(s)	2.a.i
PPS Request	In order to effectively establish an integrated delivery system, the PPS must implement a uniform credentialing process, which will require waiver or modification of the referenced regulations
DOH/OMH/OASAS Response	Credentialing. Approved. The PPS requested waivers of 10 NYCRR § 405.2, for the purpose of allowing the PPS to gather and store credentialing information in a central repository and share such information with PPS providers as appropriate is approved. There must be a process in place for each provider in the PPS. Each individual practitioner must be privileged by each facility.
14 NYCRR 77	**Request #48.37 Governing Physical Plant Standards for Behavioral Health Facilities**
Project(s)	3.a.i
PPS Request	Integration of behavioral health and primary care under Models A and B may require waiver of some physical standards for behavioral health facilities.
DOH/OMH/OASAS Response	Integrated services. Approved solely with respect to 14 NYCRR 599.4(r) and (ab). See DSRIP Project 3.a.i Licensure Threshold Model, p. 28.

14 NYCRR 822 14 NYCRR 841	**Requests #48.38, 48.39 Article 32 Home/Off-Site Visits**
Project(s)	2.a.i, 2.b.viii
PPS Request	The PPS hopes to provide engagement and outreach services in the community because many patients fail to receive the care they need. The PPS would like to offer service to patients under Home and Community Based Services-Adult Mental Health to patients eligible for Health and Recovery Plans (HARP).
DOH/OMH/OASAS Response	Off site visits. Approved. Such approval is contingent upon notification by the PPS of the specific providers, practitioners and services. However, reimbursement for the provision of such services would not be available absent approval of a State Plan Amendment (SPA) to the State Medicaid Plan being pursued by OASAS.
14 NYCRR 599.4(r) (ab)	**Requests #48.40, 48.41 Article 31 and Article 32 Clinic Reimbursement for Primary Care Services**
Project(s)	2.a.i, 3.a.i
PPS Request	Currently, a provider licensed by OMH under MHL Article 31 to provide outpatient mental health services or certified by OASAS under MHL Article 32 to provide outpatient substance use disorder services must obtain PHL Article 28 licensure by the Department if more than 5 percent of total visits are for primary care services or if any visits are for dental services. We request regulatory changes to facilitate integration of primary care and behavioral health services and simplify the licensure process. Furthermore, we request that primary care is allowed to be provided under Title 14 regulations and payment is allowable regardless of the percent of visits for primary care.
DOH/OMH/OASAS Response	Integrated services. Approved solely with respect to 14 NYCRR 599.4(r) and (ab). See DSRIP Project 3.a.i Licensure Threshold Model, p. 28.
14 NYCRR 599.4(r) (ab)	**Request #R2-9 Licensure Threshold**
Project(s)	3.a.i.
PPS Request	Restriction easement on threshold visits allows us to perform services at same time for patient convenience
DOH/OMH/OASAS Response	Integrated services. Approved solely with respect to14 NYCRR 599.4(r) and (ab). See DSRIP Project 3.a.i Licensure Threshold Model, p. 28.
10 NYCRR 709.8(b)(4)	**Request #R2-10 BMT Beds**
Project(s)	2.a.i.
PPS Request	Granting this waiver to reduce the required number of pediatric BMT beds to 2, would allow WCHOB to secure licensed pediatric BMT beds in the Oishei Children's Hospital to optimize delivery of care, keeping patients closer to home and avoiding costly travel or sending patients out of state for services through our collaboration with Roswell Park Cancer Institute. A pediatric BMT program is an essential component of a comprehensive pediatric hematology/oncology program.
DOH/OMH/OASAS Response	Approved. BMT Beds.

10 NYCRR 763.5(a)	Request #R2-13 Initial Patient Visit within 48 Hours
Project(s)	2.b.viii.
PPS Request	The regulation states the initial patient visit shall be made within 24 hours of receipt and acceptance of a community referral or return home from institutional placement. The PPS requests this be changed to 48 hours. To have a consistent expectation that follows the Federal guideline of 48 hours. This will allow the agency the ability to prioritize care based on patient condition verses referral date within the first 48 hours.
DOH/OMH/OASAS Response	Approved. Federal regulation CFR 484.55 allows for an initial assessment visit by an R.N. or appropriate therapist (if a therapy-only case) within 48 hours of referral, inpatient discharge or on the physician ordered start of care date.

10 NYCRR 710.1	Request #R2-15 Public Need and Financial Feasibility CON
Project(s)	2.b.iii.
PPS Request	Current regulatory requirements create an unfair competitive environment by requiring Article 28 facilities to go through the CON progress when non-article 28 private practice groups can establish/construction DTC without DOH involvement.
DOH/OMH/OASAS Response	Public Need and Financial Feasibility. Approved. The PPS requested waivers of 10 NYCRR 670.1, 709 and 710.2, with respect to the public need and financial feasibility components of the CON process. Waivers are approved, however, note that: • No waiver is available for establishment applications. • Only the public need and financial feasibility component of the CON process is waived, meaning that a construction application still need to be filed through NYSE-CON and provider compliance will still be reviewed. • No waiver is available for specialized services, CHHA service area expansions, and hospital and NH bed increases, which will be determined on a case-by-case basis

10 NYCRR 401.1 10 NYCRR 401.2(b)	**Request #R2-19** **Off-Site Services or Home Visits**
Project(s)	2.b.viii.
PPS Request	NFMMC seeks waiver authority to permit employed physicians and mid-levels to provide services outside of a certified service site and to be able to bill and receive reimbursement for the provision of primary care services at patient homes. In March 2015, the New York State Department of Health approved a waiver request from MCC to allow practitioners affiliated with Article 28 providers to provide services outside of the certified service site. While the request was approved, the State indicated that reimbursement for the provision of such services would not be available absent approval of a State Plan Amendment to the State Medicaid Plan and revisions to associated state regulations. The Department of Health further indicated that it was pursuing necessary actions to permit the receipt of such reimbursement. MCC is called upon to refile a waiver request to enable Article 28 providers to conduct home visits. Such action will underscore the importance of permitting Article 28 providers to bill for such services. NFMMC will be participating in the Hospital Home Care Collaboration project. To keep home care patients out of the ED and to avoid unnecessary admissions, visits to home care patients will be necessary to review medication regimens, conduct physical exams and retool the patient's at-home treatment plan. Without the ability to conduct and receive reimbursement for such home visits it will be difficult to fully advance the objectives of the Hospital Home Care Collaboration project.
DOH/OMH/OASAS Response	Off-Site Services or Home Visits. Approved. The PPS requested waivers of 10 NYCRR 401.2(b) for the purpose of allowing practitioners affiliated with Article 28 providers to provide services outside of the certified service site. The request is approved, contingent upon notification by the PPS of the specific providers, practitioners and services. However, reimbursement for the provision of such services would not be available absent approval of a State Plan Amendment (SPA) to the State Medicaid Plan and associated state regulations, both of which are being pursued by the Department.

DENIED WAIVERS

10 NYCRR 760.5	Request #48.01 Determinations of Public Need
Project(s)	2.b.vii
PPS Request	CON waiver expedition in order to establish women's behavioral health unit at Terrace View/ECMC to decrease hospitalizations for this underserved segment of the population. We have identified a need for a higher level of SNF based behavioral health for women, mirroring a very successful men's behavioral health unit at Terrace View ECMC. This would cross multiple projects, allowing for most appropriate care for a population that is frequently admitted to the hospital. Requests a waiver of Department regulation (10 NYCRR 760.5 – determination of "need" for a home care agency), stating that they "have identified a need for a higher level of SNF (skilled nursing facility) based behavioral health for women, mirroring a very successful men's behavioral health unit at Terrace View ECMC."
Reason for Denial	More information needed
10 NYCRR 760.5	**Request #48.02 Determinations of Public Need**
Project(s)	2.b.viii
PPS Request	CON waiver expedition for home care agency (CHHA); application to add new services to operating certificate (ECMC) to serve the entire PPS geography. There are very few safety net home care providers, and no CHHA in our PPS. There is great need in the Medicaid and uninsured population for continued skilled services post discharge. Expanding ECMC's operating certificate to include a CHHA would allow us to continue to treat patients through the entire continuum, at a level of accountability and quality that will allow us to meet all of our metrics.
Reason for Denial	CHHA-Determination pending.

18 NYCRR 505.9	Requests #48.04, 48,05 Telemedicine/Telehealth
Project(s)	2.b.vii , 2.b.viii
PPS Request	• Implementation of the INTERACT protocol; would allow for practitioners to be reimbursed for communicating via telemedicine with facility staff to avoid hospital transfer via remote consultation. This waiver would allow for specialists to reach a higher volume of patients throughout the day than would normally occur if patients required transportation or the specialist needed to travel between facilities. It would allow for specialists to be reimbursed for this care, lending to system transformation and viability exceeding the five years of DSRIP. Current regulations do not allow telemedicine reimbursement in most circumstances, which impedes the ability of specialists to utilize the efficiency of such a model. • Would allow lower level practitioners and Care transitions specialists to correspond with specialists and PCPs to avoid hospitalizations via remote consultation. This waiver would allow for specialists to reach a higher volume of patients throughout the day than would normally occur if patients required transportation or the specialist needed to travel between facilities. It would allow for specialists to be reimbursed for this care, lending to system transformation and viability exceeding the five years of DSRIP. Current regulations do not allow telemedicine reimbursement in most circumstances, which impedes the ability of specialists to utilize the efficiency of such a model.
Reason for Denial	Billing teleheath, practitioner to practitioner interactions- Denied. OHIP will explore in the future.
10 NYCRR 405.1 10 NYCRR 600 10 NYCRR 710	**Requests #48.12, 48.13 Certificate of Need Regarding Establishment**
Project(s)	2.b.vii , 2.b.viii
PPS Request	The activities undertaken for these projects could implicate establishment requirements. As project plans are developed in more detail a specific waiver request will be submitted.
Reason for Denial	Administrative Services. No waiver needed. The PPS requested waivers of 10 NYCRR §§ 600.9 and 405.1(c). No waiver is needed to the extent the PPS is performing administrative functions for purposes of administering PPS activities. However, if the PPS is performing functions described in 10 NYCRR § 405.1(c) and thus acts as the active parent of another entity, it will require establishment as set forth in § 405.1(c).

10 NYCRR 400.9 10 NYCRR 400.11 10 NYCRR 405.9 10 NYCRR 415.38 10 NYCRR 700.3 18 NYCRR 5	**Request #48.18 Admission, Discharge and Transfer**
Project(s)	Various
PPS Request	As project plans are developed, it is anticipated that the referenced regulations may pose impediments to smooth and rapid transition of patients between care levels. More specific requests for regulatory relief will be submitted once project plans are developed.
Reason for Denial	Admission, Transfer and Discharge. No waiver needed. The PPS requested waivers of 10 NYCRR Parts 400.9, 400.11 405.9, 415.38 and 700.3; 18 NYCRR 5, which provide important protections related to the admission, transfer or discharge of patients from in patient settings, including prohibiting decisions about admission, transfer or discharge based on source of payment. No regulatory waiver is needed for purposes of permitting transfers and discharges of patients between PPS partners, provided that decisions to admit, transfer or discharge are clinically based and appropriate documentation is made thereof.
10 NYCRR 415.3 10 NYCRR 415.4	**Request #48.20 Nursing Home Transfers**
Project(s)	2.b.vii
PPS Request	Regulations that compel nursing homes to transfer patients (in particular behavioral patients) to hospitals to protect the safety of other residents, should be modified or waived to allow for appropriate therapeutic interventions within the nursing home.
Reason for Denial	Resident rights, Resident behavior and facility practices. More information needed to demonstrate what regulatory barriers exist that prohibit a nursing home from providing appropriate and needed services.
10 NYCRR 763.7	**Request #48.21 Home Care Orders by Nurse Practitioners and Physician Assistants**
Project(s)	2.b.viii
PPS Request	Home care ordering authority should be broadened to allow for workforce flexibility.
Reason for Denial	Denied. We do not have the authority to waive a federal requirement.

10 NYCRR 766.5	**Request #48.22** **Home Health Aide Supervision**
Project(s)	2.b.viii
PPS Request	Broader range of clinicians should be able to perform home health aide supervision, including utilizing methods other than on-site supervision.
Reason for Denial	Waiver not needed. Currently L.P.N.s, R.N.s, and therapists are able to supervise home health aides.
10 NYCRR 708.3 **10 NYCRR 401.3(g)**	**Request #48.23** **Relocations and 708.4 Facility and Service Changes and Closures**
Project(s)	N/A
PPS Request	It is anticipated that project plans may involve bed and service relocations between established providers within the PPS as well as closures of services and facilities. The PPS requests that these relocations and closures be permitted upon notification to the Department. Specific requests for waiver will be submitted as plans are further developed.
Reason for Denial	• Bed and Service Relocations. No Waiver Needed. Transfers and relocations of beds and services between general hospitals within an established Article 28 network as defined in 10 NYCRR 401.1 are subject only to limited review, submitted through NYSE-CON. • Facility Closure. Denied. While the Department will expedite approvals of closures, to the extent appropriate for facilitation of the PPS Project Plan, appropriate notice is important to patients/residents, families, vendors, other providers, and communities. Moreover, the Department cannot circumvent federal and state statutory requirements such as the federal Worker Adjustment and Retraining Notification (WARN) Act. The request therefore are denied.

14 NYCRR 510 14 NYCRR 520 14 NYCRR 803 14 NYCRR 804	**Requests #48.31, 48.32 Accessing or Correcting OMH Record**
Project(s)	3.a.i, 3.a.ii
PPS Request	There are various regulations that govern and restrict how health and behavioral information can be shared. To effectively integrate behavioral health and physical health services as contemplated by the above projects, patient information must be able to be shared between providers and record-keeping requirements should be uniform so as not to require duplicate efforts.
Reason for Denial	• Sharing of Patient Information. OMH-Denied. Both 14 NYCRR 510 Part 803 (public access to records) and 520 (access to or amendment /correction of records) apply only to providers directly operated by OMH; neither is applicable to licensed community mental health providers. Further, Part 510 reflects the Freedom of Information Law, which cannot be waived. Part 520 also implements a statutory requirement and hence cannot be waived. OMH fails to see the connection between these regulations and the ability to integrate treatment records. • Sharing of Patient Information. OASAS-Denied. Both 14 NYCRR Part 803 (public access to records) and Part 804 (access to information) correlate to statutory requirements, which cannot be waived. Further, neither provision speaks to the ability to integrate treatment records.
10 NYCRR 405.9 10 NYCRR 400.9 10 NYCRR 400.11 10 NYCRR 700.3 10 NYCRR 415.38 18 NYCRR 505.20 18 NYCRR 540.5 14 NYCRR 36.4, 1	**Request #48.33 Integrated Services**
Project(s)	2.a.i
PPS Request	Currently, various agencies have rules and regulations governing patient transitions. These processes must be waived or streamlined in an integrated environment. The specific waiver needs will become more apparent as project plans are developed.
Reason for Denial	Request not specific. Additional information needed.

10 NYCRR 94.2	**Requests #48.42, 48.43 Physician Assistants**
Project(s)	2.a.i, 3.a.ii
PPS Request	To increase capacity of PCPs within the IDS. Data from the CNA clearly indicates inadequacies of PCPs for both medical and especially behavioral health patients. With PCP shortages locally and nationwide and accompanying increase in demand for practitioners at the gate-keeper levels, increase in mid-level providers to accommodate the shortage is inevitable. Without assistance from adequately trained mid-level practitioners, implementation of the project will yield less than optimum results: patients will be disengaged due to long waiting times to see practices (sometime months), and patients may opt out of the program which will negatively impact the PPS. Follow-up of behavioral health patients from inpatient stays may be impeded due to inadequacy of providers, which may result in readmission within 30 days, thus negatively impacting the project.
Reason for Denial	Physician assistants. Denied as the limit on the number of physician assistants a physician may supervise is a patient safety protection.
10 NYCRR 34	**Request #48.44 Physician Self-Referral**
Project(s)	3.b.i
PPS Request	Allowance of self-referral for qualified subspecialties (especially cardiology) would increase patient engagement and adherence, which would positively impact the project. Cardiology subspecialists who provide services for the Medicaid population often prefer to provide cardiology rather than primary care services because of referral regulations and payment structure. This waiver would allow cardiologists to offer both primary care and cardiology services, and physicians will be willing to provide more primary care services. This will reduce the chasm of increasing demand and reducing supply vis-à-vis cardiology, which is a high need for all Medicaid population. This will also enable patients to receive service in a one- stop-shop fashion, which is very helpful especially with difficulties in transportation associated with the Medicaid population. We acknowledge that the practice may implicate federal law as well.
Reason for Denial	Physician Self-Referral. Denied. This requirement is based in statute, which we do not have the authority to waive.

Article 30, Section 3002-A-2(c)	Request #48.45 Approval of Protocols
Project(s)	2.b.iii
PPS Request	This article states in part: "The State Emergency Medical Services Advisory Council (SEMAC) shall also review protocols developed by regional emergency medical advisory committees (REMACs) for consistency with statewide standards." The proposed DSRIP program will require protocols that exceed the current state standards (i.e., more correctly viewed as the scope of practice for a paramedic); and, the SEMAC's three meetings or fewer a year are insufficient to meet the quickly evolving needs of this program. Further, SEMAC statewide protocols do not take into account the vastly different types of care that would be delivered by our community paramedics. In fact, it could be argued that treatment of patients in the field by mid-level providers and physicians in the call/coordinating center using telemedicine and community paramedics as proxies is not EMS at all. Modification of the scope of practice for community paramedics will need to be redefined by the Department. While we acknowledge that these issues do not directly relate to regulations that are eligible for waiver, we wanted to note the issue.
Reason for Denial	Not applicable as a regulatory waiver was not requested.
N/A	**Request #48.46 Alternate Site/Transport Methods New York State Basic Life Support (BLS) Protocol**
Project(s)	2.b.iii
PPS Request	DSRIP agencies may utilize alternate transportation methods and transport destinations based on specially created and regionally approved DSRIP protocols. This will require relief from sections of the current BLS protocols, which limit approved transport methods and transport destinations. We believe that these protocols are less than statutory or regulatory, but will still require some type of relief by the governing body (the Department's Bureau of Emergency Medical Services) and wanted to make note of the issue.
Reason for Denial	Not applicable as a regulatory waiver was not requested.

N/A	Request #48.47	Alternate Site/Transport Methods New York State Basic Life Support (BLS) Protocol
Project(s)	2.b.iii	
PPS Request	MA currently only reimburses EMS agencies for care of patients who are transported to a receiving facility. Since the ED Care Triage project will involve treatment by community paramedics without transport and/or transport to a non-traditional facility (perhaps by another non-medical transportation entity such as a cab service), reimbursement for this care by MA is not allowable at this time. While we acknowledge that applicable regulations may not be eligible waiver, we wanted to note this issue and request relief to allow for payment by MA for care by community paramedics regardless of transport to an approved receiving facility. In addition, we request that MA recognize and provide reimbursement for the mid-level/physician care provided via telemedicine from the call/coordination center using the community paramedical as the hands/eyes/ears of the clinicians (i.e., care proxies).	
Reason for Denial	Denied. This would require a change in statue, which we do not have the authority to waive. Public Health Law does not permit community paramedicine and only allows EMS agencies to provide care during an emergency.	
10 NYCRR 709.3	**Request #R2-1**	**Swing Beds**
Project(s)	2.a.i.; 2.b.vii.; 3.a.i.	
PPS Request	In order to further integrate UAHS (by merging Olean General Hospital and Bradford Regional MC), the Sub Acute Rehab program needs to be continued (has $650K margin). The average daily census of a merged entity would exceed the 100 limit for swing beds. Converting the swing beds to SNF beds addresses the issue as LTC beds are not counted in average daily census. The further integration of UAHS will have a $1.5M impact on the system, clearly having a stabilizing effect on OGH. The further integration will also assist OGH in projects noted herein.	
Reason for Denial	No waiver needed. There is no regulatory limit on a hospital's swing bed capacity. If the PPS wishes to change the designation of 20 hospital swing beds to nursing home beds, hospital regulations and reimbursement could no longer apply to these beds. Nursing home regulations and reimbursement apply. Bed need methodology aside, the PPS may find that the cost of complying with nursing home requirements (i.e. renovations and space requirements) is too high to be cost effective. The change in reimbursement might also erode some of the current profit margin derived from the swing beds.	
10 NYCRR 83	**Request #R2-2**	**Co-Location, Shared Space**
Project(s)	3.f.i, 4.d.i	
PPS Request	Both organizations already have a good working relationship but realize that the best case scenario would be to co-locate. By doing so both organizations would increase their staff's knowledge, encourage further collaboration, decrease overall costs and expand service provision. Additionally, consumers, and human service agencies, would know where to go for the critical services these programs provide to new moms and children.	
Reason for Denial	Determination pending. The potential for permitting providers to share the same licensed physical space is under review.	

Sections 2962, 2970, 2971 of PBH Law	Request #R2-3 Allow NPs and PAs to Sign MOLST Forms
Project(s)	2.b.vii.
PPS Request	1. Current regulation requires a Physician to sign off on MOLST. This can cause a delay in MOLST activation or providers to be out of compliant. There also exists varying time frames of recertification depending on the patient's setting, such as review every seven days in an acute setting. We request that NPs and Pas be allowed to sign these orders so that providers and facilities more easily maintain compliance, and patient orders be activated more timely. 2. Nurse Practitioners and Physician Assistants already engage patients and healthcare decision makers in end-of-life care discussions 3. NPs and PAs receive training that prepares them to have discussions on the kinds of medical interventions that are discussed on the MOLST form and what those interventions would do for the patient 4. Sometimes there is a delay in the MOLST process because the form must be signed by both the patient/decision maker and the physician but the physician isn’t on site to validate the form 5. Allowing NPs and PAs to sign the MOLST form to create immediately actionable orders will help to encourage discussion of end-of-life treatment options and raise awareness of the availability of MOLST 6. Allowing NPs and PAs to sign the MOLST form would ensure patient's end-of-life care preferences are honored by eliminating any delays.
Reason for Denial	Denied. We do not have the authority to waive state statute.

Section 2802-a of PHL amended by Chapter 58	Request #R2-4 Transitional Care Units
Project(s)	2.b.vii.
PPS Request	1. Allow Ventilator beds in Transitional Care unit allowing for an average length of stay greater than 20 days. CON would be necessary for the transition of standard TCU beds to ventilator beds. The currently is a great shortage of post-acute ventilator beds in Western New York, with patients being transferred to Pennsylvania and NYC as a result. The addition of these beds would allow us to care for the residents of WNY in their community. 2. Allow TCU to receive Medicaid reimbursement. Currently TCU's cannot receive Medicaid reimbursement. This would limit the patients who may require the higher acuity care that can be provided on a TCU increasing acute LOS or readmissions from SNFs. 3. Allow transfers from other PPS hospitals. Currently the TCU must accept patients from its own hospital where it is located. If these ventilator beds are located in the TCU, it would fill the need from the community and entire PPS. We ask that this waiver not be limited to ventilator beds and allow all TCU beds to accept transfers. 4, Allow an average Length of stay greater than 20 days for ventilator beds. The patients would be located within the hospital in the TCU, which would allow a lengthened weaning potential in the safest environment.
Reason for Denial	Denied. We do not have the authority to waive state statute.
10 NYCRR 67-1.3	**Request #R2-5 Addition of EPOC Electronic Point of Care Technology**
Project(s)	2.b.vii.
PPS Request	Request the use of an EPOC Electronic Point of Care Technology to obtain Blood Chemistry and Hematology within minutes. Requesting that this be added as a CLIA waived service enabling on-the-spot assessment without having to send patients to the E.R. or Hospital for Assessment and appropriate treatment. Obtain "instant" results for specific blood chemistry and hematology to be immediately incorporated into decision to transfer patient to the hospital or treat in place in the SNF.
Reason for Denial	Denied. We do not have the authority to waive state statute.

10 NYCRR 83 10 NYCRR 401.1 10 NYCCR 700.2 (a)(22) 10 NYCRR 703.6 14 NYCRR 599.4(r) (ab)	**Requests #R2-6, R2-7, R2-8 Co-Location, Shared Space**
Project(s)	3.f.i, 4.d.i
PPS Request	Expansion of obstetrics and reduce low birth rates. Colocation allows for us to operate a site in the same space as the county. Both clinics will operate separate EHRs.
Reason for Denial	Determination pending. The potential for permitting providers to share the same licensed physical space is under review.
10 NYCRR 405.30(b)(3)	**Request #R2-11 Transplant Volume**
Project(s)	2.a.i.
PPS Request	Title X: Section 405.30 (b) (3) When fully operational, to ensure quality of care, the hospital shall perform at least 10 liver transplants per year if it is to continue as an approved liver transplant program; or at least 10 human heart transplants per year if it is to continue as an approved heart transplant program; or at least 10 kidney transplants a year if it is to continue as an approved kidney transplant program; or at least 10 lung transplants per year if it is to continue as an approved lung transplant program. The Department will monitor outcomes for graft and patient survival. transplant program. The Department will monitor outcomes for graft and patient survival. Granting this waiver to reduce the number of pediatric kidney transplants, would allow WCHOB to optimize delivery of pediatric kidney transplant care for our community, as the only standalone Children's Hospital allowing us to treat patients closer to home, avoiding costly travel or sending patients out of state for services, through collaboration with Erie County Medical Center.
Reason for Denial	More Information needed. The Department cannot waive the CON requirement for full review of a pediatric transplant program. However, we would consider waiving the programmatic minimum volume requirement in an approved pediatric transplant program.

NYS Physical Therapy: Rules & Regulations: 6738 Ciii (iii)	**Request #R2-12 Supervision by Licensed Physical Therapists**
Project(s)	2.b.viii.
PPS Request	6738 Ciii (iii) states that periodic treatment and evaluation of the patient by the supervising licensed physical therapist, as indicated in the plan of care and as determined in accordance with patient need, but in no instance shall the interval between such treatment exceed every six patient visits or thirty days, whichever occurs first; The PPS requests to strike every 6 visits from the language. Utilization of licensed physical therapists are a valuable resource in home health care, carrying out physical therapy treatments under the supervision of a licensed physical therapist. Many if not most state regulations call for on-site supervision of PTAs every 12 visits or 30 days. The 6 day supervision requirement greatly restricts the ability of PTs and PTAs to optimize the efficiency of carrying out these highly effective treatments. Physical Therapists are difficult to recruit, particularly in rural counties and by easing the supervision requirements it would insure that all patients are able to receive the full therapeutic benefit of their services.
Reason for Denial	Denied. This requirement is in New York State Education law and we do not have the authority to waive statute.
10 NYCRR 763.4(h)(6)	**Request #R2-14 Licensing Required for Supervising Home Health Aides**
Project(s)	2.b.viii.
PPS Request	The regulation states that supervision of a home health aide or personal care aide is conducted by a registered professional nurse or licensed practical nurse or by a therapist if the aide carries out simple procedures as an extension of physical therapy, occupational therapy or speech/language pathology. The PPS requests the removal of "if the aide carries out simple procedures as an extension of physical therapy, occupational therapy or speech/language pathology." Licensed therapists are more than capable of supervising home health aides for Activity of Daily Living care as well as in the carrying out of simple Home Exercise Programs. In fact ADL training is a core teaching in both physical therapy and occupational therapy curriculums, and most states allow for this supervision to occur. By allowing therapists to also carry out home health aide supervisions, it will free up additional nursing resources to accomplish DSRIP projects.
Reason for Denial	No waiver needed. Federal CFR 484.3(d) requires that a patient receiving skilled nursing care requires onsite supervision of the aide every 14 days, performed by a R.N. If the patient is not receiving skilled nursing care, but is receiving another skilled service (PT, OT or SLP), supervision may be provided by the appropriate therapist. Under 763.4, if the therapist is the "professional" supervising the aide (for therapy-only cases), the therapist would supervise all care provided by the aide, including assistance with Activity of Daily Living care.

10 NYCRR 406.1	**Request #R2-16 Swing Beds**
Project(s)	2.a.i.
PPS Request	For purposes of this section, a swing bed program operated by a rural hospital that has an approval from the Health Care Financing Administration (HCFA) to provide post hospital skilled nursing facility (SNF) care, shall mean beds used interchangeably as either general hospital or nursing home beds with reimbursement based on the specific type of care provided so that use of beds in this manner provides small hospitals with greater flexibility in meeting fluctuating demands for inpatient general hospital and nursing home care. To allow small (<100 bed) urban Article 28 facilities to operate Swing Beds. To avoid emergency requests to local offices for temporary permission to convert beds for volume surges.
Reason for Denial	Denied. This is a federal requirement which we do not have the authority to waive.
10 NYCRR 712-1.7	**Request #R2-17 Psychiatric Units**
Project(s)	3.a.ii.
PPS Request	The psychiatric unit, if included in a hospital as a separate nursing unit, shall have its program requirements approved by the Commissioner of the Department of Mental Hygiene. To relax the regulations required to establish new inpatient psychiatric specialty units (i.e: geriopsych). Many national behavioral health agencies with expertise in managing inpatient behavioral health units are unwilling to work with NYS Article 28 facilities due to the strict and cumbersome regulatory requirements that must be followed.
Reason for Denial	More Information needed. (OMH.) Please e-mail additional clarification to Keith McCarthy of OMH at Keith.McCarthy@omh.ny.gov
10 NYCRR 709.3	**Request #R2-18 Residential Health Care Facility Beds**
Project(s)	2.a.i.
PPS Request	Allow for a new category of RHCF pediatric beds at Highpointe: Pediatric Sub-Acute Long Term Care. These beds would allow Article 28 SNFs to care for pediatric patients with a combination of sub-acute and behavioral needs that no longer require an acute care hospital but are also not appropriate for psychiatric facilities. Currently, no such services are available in NYS and pediatric patients requiring such care are transferred out of state to facilities with limited capacity and long wait-lists.
Reason for Denial	Waiver not needed. 10 NYCRR 709.3 is nursing home bed need methodology. It does not apply to pediatric nursing home beds. Pediatric units already receive specialty rates, which embrace the entire gamut of care rendered in the pediatric unit, including ventilator-dependent care and special medical, rehabilitative and educational needs for this population. The current system is addressing the needs of this population, including the most complex children, who will require a long nursing home stay, as well as children who require mainly rehabilitation prior to discharge to home.

Millennium COLLABORATIVE CARE

10 NYCRR 405.15	Request #R3-1 PA/NP Oversight of Contrast Medium Use in ED
Project(s)	2.b.iii
PPS Request	Millennium Collaborative Care is requesting regulation to be waived to allow for physician assistants and nurse practitioners working in the emergency department to oversee the administration or use of contrast medium. Hospitals are unable to afford employing physicians full time to cover the ED or remain in–house "24/7".
Reason for Denial	Denied. Public Health Law § 3501 (3) requires a licensed physician to directly supervise the administration of contrast media in the interest of public safety. Physician assistants or nurse practitioners can only be involved in the ordering of the contrast and evaluation of the patient´s health prior to the test. DSRIP regulatory waiver authority does not permit the Department to waive statutory requirements. As such, this regulation cannot be waived.

DSRIP Project 3.a.i Licensure Threshold Model, p. 28

Integrated services. Approved solely with respect to14 NYCRR 599.4(r) and (ab), which will be waived contingent upon following the DSRIP Project 3.a.i Licensure Threshold Model, p. 28 outlined in Appendix A to this letter. The Department, OMH and OASAS have determined that no additional waivers are needed if providers are integrating services under such model. As noted in Appendix A, the use of this model is contingent upon:

- submission of an application by the PPS with the identification all providers involved in such model;
- the verification of the good standing of such providers by the Department, OMH and OASAS, as appropriate;
- satisfaction of the physical plant standards as delineated in Appendix A.