



October 1, 2024

## **Updated Licensure Threshold Guidance**

### **For Ambulatory Services for New York State Department of Health (DOH), Office of Mental Health (OMH), Office of Addiction Services and Supports (OASAS), and Office for People With Developmental Disabilities (OPWDD) programs**

New York State is committed to ensuring that health and human services providers can effectively serve individuals with co-occurring needs. This guidance outlines changes in the licensure thresholds that allow certain DOH licensed Article 28 primary care providers, OMH licensed Article 31 Mental Health Outpatient Treatment and Rehabilitative Service (MHOTRS) providers, OASAS licensed Article 32 addiction outpatient treatment providers, and OPWDD licensed Article 16 intellectual and developmental disability (I/DD) service providers to provide comprehensive ambulatory services, consistent with New York State scope of practice laws and rules.<sup>1</sup>

### **Changes in Licensure Thresholds**

Licensure thresholds are the amount of physical, behavioral health, or diagnostic and treatment services that can be delivered by a licensed provider in an ambulatory setting without requiring another license, certification, or designation by a State oversight agency to provide those services.<sup>2</sup> NYS has determined that increasing licensure thresholds is fundamental to increasing whole person care, as limitations on the amount and types of services that could be delivered by each provider have contributed to access to care barriers. Prior to this update, providers were required to obtain an additional license, certification, or designation from more than one NYS agency when they wished to offer ambulatory primary care, behavioral health services, or diagnostic and treatment services for individuals with an I/DD diagnosis above established thresholds.

In order to increase access to integrated care for individuals with co-occurring needs and ease administrative burdens on providers, DOH, OMH, OASAS, and OPWDD have updated existing licensure thresholds as outlined below.<sup>3</sup>

---

<sup>1</sup>The licensure thresholds described in this guidance do not apply to programs approved to provide integrated services under IOS or DSRIP 3ai. Additionally, any such programs that are authorized to provide primary care services shall also be authorized to provide primary care services to individuals with an I/DD diagnosis, as defined in Part 679 of the New York Codes, Rules and Regulations (NYCRR), and in accordance with any other requirements applicable to such integrated care programs, such as whether the individual is appropriate for admission to the program.

<sup>2</sup> Services that are already permissible under a license and as defined in regulations applicable to such programs (e.g., Health Monitoring Services in an Article 31 setting pursuant to Part 599, or Psychological services provided by appropriately licensed practitioners in an Article 16 setting pursuant to Part 679) do not count towards any applicable licensure thresholds.

<sup>3</sup> For OMH licensed clinics providing primary care services, this guidance will be effective when the amendment to OMH's Part 599 regulations necessary to effectuate this regulation change is effective. This is anticipated shortly.



Licensed providers delivering integrated services within the newly established licensure thresholds are required to possess the license or certification for the applicable facility type consistent with the requirements of the NYS Public Health Law, Mental Hygiene Law, and NY Codes, Rules, and Regulations. For Article 28 providers integrating services under the thresholds, the majority of services provided must be physical health services. Additionally, licensed providers may only provide integrated care services under applicable thresholds to individuals appropriate for admission under the license or certification they possess, as determined by applicable NYS agency regulations.

## **Guidance for Providers Under Updated Licensure Thresholds**

### **A. Article 28 Provider Offering Ambulatory Behavioral Health Services and/or Diagnostic and Treatment Services for People with I/DD**

OMH will maintain the current licensure thresholds so Article 28 providers may continue to provide **up to 30 percent of their total annual visits** for mental health services without obtaining an Article 31 license from OMH.

OASAS has implemented a licensure threshold so Article 28 providers may provide **up to 30 percent of their total annual visits** for addiction services without obtaining an Article 32 certification from OASAS.

OPWDD has implemented a licensure threshold so Article 28 providers may provide **up to 30 percent of their total annual visits** for diagnostic and treatment services for people with I/DD.

### **B. Behavioral Health Services Provider (Article 31 and Article 32) Offering Primary Care Services**

DOH has raised the licensure threshold for OMH MHOTRS programs licensed pursuant to Part 599 of Title 14 of the New York Codes, Rules, and Regulations (NYCRR) and Article 32 providers certified pursuant to Part 822 of Title 14 of the NYCRR to enable them to provide **up to 30 percent of their total annual visits** for primary care services without obtaining an Article 28 license from DOH. Medical services that occur throughout the OASAS bedded programs are not subject to the thresholds as outlined in this guidance.

### **C. Mental Health Services Provider (Article 31) Offering Addiction Services and Addiction Services Provider (Article 32) Offering Mental Health Services**

OMH licensed and OASAS certified providers may continue to integrate mental health and addiction services for individuals with co-occurring conditions in accordance with OMH and OASAS regulations and guidance. Providers are not required to obtain an Integrated Outpatient Services (IOS) license pursuant to Parts 598 or 825 of Title 14 of the NYCRR for this purpose and such services are not subject to any thresholds. The agencies are working on additional guidance regarding integrated mental health and addiction services in OMH and OASAS settings.



## D. Intellectual and Developmental Disability (I/DD) Services Provider (Article 16) Offering Primary Care

DOH has raised the licensure threshold for Article 16 clinic providers offering diagnostic and treatment services to people with intellectual and developmental disabilities, as determined eligible by OPWDD, to enable them to provide **up to 30 percent of their total annual visits** for primary care services without obtaining an Article 28 license from DOH.

The following table illustrates the changes being made in this guidance:

License Type	Licensure Thresholds Prior to 10/1/2024				Licensure Thresholds As of 10/1/2024			
	Diagnostic and Treatment Services <sup>1</sup>	Primary Care	Mental Health	Addiction Services	Diagnostic and Treatment Services <sup>1</sup>	Primary Care	Mental Health	Addiction Services
Article 16		20%	**	**		30%	**	**
Article 28 <sup>***</sup>	20%*		30%	0%	30%*		30%	30%
Article 31	**	5%		**	**	30%		**
Article 32	**	5%	**		**	30%	**	

<sup>1</sup>: For individuals with I/DD

In all circumstances, services that are already permissible (e.g. Health Monitoring Services in an Article 16, Article 31, or Article 32 setting) do not count against the threshold.

\*Only in settings where less than 50% of the population served has an I/DD, as determined eligible by OPWDD, and more than 30% of total services are diagnostic and treatment services for people with I/DD.

\*\*Providers can deliver integrated behavioral healthcare to individuals who meet the appropriate admission criteria, within scope and to the extent which staff have the necessary education, training, and experience.

\*\*\*Notwithstanding the threshold allowances provided herein, the majority of services provided in an Article 28 must be physical health services.

## Billing

Providers delivering services outside their applicable licensure under the updated licensure thresholds shall continue current billing practices for these services<sup>4</sup> until otherwise directed.

Provider payment will continue to be processed through the Ambulatory Patient Group (APG) grouper/pricer and paid in accordance with the payment blend and APG pricing rules (packaging, discounting, bundling) associated with services normally billed under that APG rate code, if APG packaging, discounting, and/or bundling apply. Providers are expected to adhere to the licensure threshold limits identified above. Federally Qualified Health Centers that have not opted into APGs must bill their all-inclusive Prospective Payment System (PPS) rate of all services furnished to a patient on the same day.

<sup>4</sup>Please refer to the [OASAS APG billing manual](#) for billing for substance use disorder and Physical health services.



## Services Exceeding Updated Licensure Thresholds

Providers may not bill Medicaid for any service rendered above the 30% licensure thresholds unless the appropriate licensure, certification, or designation is in place at the time the service was rendered.

## Inspection

The state licensing agency with authority shall have ongoing inspection responsibility to ensure compliance with all applicable laws, rules, and regulations. The state licensing agency will consult with other state licensing agencies on matters specific to the provision of integrated services provided under applicable thresholds to ensure patient health and safety. The state licensing agency shall refer any significant deficiencies for enforcement and may further consult with other state licensing agencies regarding appropriate remedies. If at any point during an inspection, findings identified suggest imminent risk of serious harm or injury to patients related to the provision of integrated care services, the inspector(s) will immediately contact their supervisor, who will consult with the other applicable state licensing agency regarding the matter.

Providers that fail to meet the standard of care for the provision of integrated care services shall be required to submit a corrective action plan setting forth the specific actions to be taken to improve or cease providing integrated care services within a reasonable time frame.

## Reporting

(1) Article 31 providers shall report incidents involving patients in accordance with the provisions of 14 NYCRR Part 524.

(2) Article 32 providers shall report incidents involving patients in accordance with the provisions of 14 NYCRR Part 836.

(3) Article 28 providers shall report incidents in accordance with the provisions of 10 NYCRR section 405.8 or 10 NYCRR section 751.10, as applicable.

4) Article 16 providers shall report incidents in accordance with the provisions of 14 NYCRR Part 624 or 14 NYCRR Part 625 as applicable.

## Agency Licensing, Certification, and Designation Links:

**DOH:** <https://www.health.ny.gov/facilities/cons/>

**OMH:** <https://omh.ny.gov/omhweb/licensing/>

**OASAS:** <https://oasas.ny.gov/providers/program-certification>

**OPWDD:** <https://opwdd.ny.gov/contact-us> [Provider Inquiries - Regional Offices](#)  
[and https://opwdd.ny.gov/providers/article-16-clinics](https://opwdd.ny.gov/providers/article-16-clinics)



## Questions about Licensure Thresholds

**DOH:** [cons@health.ny.gov](mailto:cons@health.ny.gov)

**OPWDD:** [clinic.services.information@opwdd.ny.gov](mailto:clinic.services.information@opwdd.ny.gov)

**OASAS:** [picm@oasas.ny.gov](mailto:picm@oasas.ny.gov)

**OMH Adult MHOTRS:** [omh.sm.adult-clinic@omh.ny.gov](mailto:omh.sm.adult-clinic@omh.ny.gov)

**OMH Children's MHOTRS:** [omhchildclinics@omh.ny.gov](mailto:omhchildclinics@omh.ny.gov)

**Please send questions on this guidance to:** [tamara.glaser@health.ny.gov](mailto:tamara.glaser@health.ny.gov)

Tamara Glaser, Integrated Care Advisor, Bureau of Adult Special Populations

NYS Department of Health