

**Certification of Site Based Prevocational Services
AMENDMENTS TO 14 NYCRR SECTION 635-7.5**

FINAL REGULATIONS

**Adoption Date: June 22, 2016
Effective Date: September 1, 2016**

- **Section 635-7.5 is amended as follows:**

Section 635-7.5. Physical plant, environmental and certification requirements for site based day habilitation [sites] and for site based prevocational services sites established on and after September 1, 2016

- **Subdivision 635-7.5(a) is amended as follows:**

- (a) Any building or space purchased or leased for the purpose of the delivery of day habilitation services or site based prevocational services through the home and community-based services (HCBS) waiver shall be certified pursuant to the requirements of section 16.05 of the Mental Hygiene Law.

- **Subdivision 635-7.5(b) is amended as follows:**

- (b) The requirements associated with the [Certificate] Certification of Need (CON) application and approval process as set forth in Part 620 of this Title shall be applicable to any day habilitation site or site based prevocational services site for which an operating certificate will be issued pursuant to this section. [However, those day habilitation sites in operation as of June 7, 1995 will not be required to retroactively participate in the Certificate of Need process.]

- **Subdivision 635-7.5(c) is amended as follows:**

- (c) An operating certificate for such building or space may only be issued to the entity that is also the authorized provider (section 635-10.1(b) of this Part) of the HCBS waiver day habilitation services (see section 635-10.4(b)(2) of this Part) or site based prevocational services (see section 635-10.4(k)) to be provided at the site.

- **Subdivision 635-7.5(d) is amended as follows:**

Note: New material is underlined and deleted material is in [brackets].

- (d) The following physical plant requirements must be met for the certification of day habilitation sites or site based prevocational service sites:

Note: Existing paragraphs (1) - (3) remain unchanged.

Note: Existing subdivisions (e) and (f) remain unchanged.

• **Subdivision 635-7.5(g) is amended as follows:**

- (g) When a day habilitation site or site based prevocational services site is financed with a Dormitory Authority of the State of New York (DASNY) loan granted pursuant to the provisions of Part 621 of this Title, the certificate holder shall, throughout the term of the loan:
- (1) be the primary provider of day habilitation services or site based prevocational services at the site; and
 - (2) project and generate income or other receivables for such day habilitation services or site based prevocational services at the site, in the form of State reimbursement for such holder, in an amount adequate and sufficient to meet the amount of the monthly debt service payable under a DASNY loan obtained by it, or obtained jointly by it in conjunction with a related holding company as owner of the site, for the purposes of financing or refinancing capital costs associated with such site.

Note: New material is underlined and deleted material is in [brackets].