



**Amendment to 14 NYCRR Part 679
Clinic Treatment Facilities**

PROPOSED REGULATIONS

Effective Date: Upon Adoption

• **Subdivisions 679.1(a) - (c) are amended to read as follows:**

- (a) This Part establishes standards for participation in the provision of approved clinical services (see glossary and also section 679.3[(j)] of this Part) in a clinic treatment facility (see glossary) serving persons with developmental disabilities as determined by the Office for People With Developmental Disabilities (OPWDD) (see glossary) through the eligibility process (see glossary). The operating certificate issued to a clinic treatment facility pursuant to this Part shall specify the clinical service areas, by discipline, approved, and the clinic certified setting(s) (by address[(es)]) under whose auspices said services are approved for delivery.
- (b) Evidence of compliance with this Part along with Parts 633, 624, and 635 of this Title serve as the principal bases for the certification and recertification by [the Office for People With Developmental Disabilities (JOPWDD)] (see glossary) of a clinic treatment facility serving persons with developmental disabilities as determined by OPWDD through the eligibility process.
- (c) The purpose of a clinic treatment facility is to serve principally persons (see subdivision (e) of this section) with developmental disabilities, as determined by OPWDD through the eligibility process, and their collaterals (see glossary) as stipulated herein, either at a main clinic site certified by OPWDD or at a certified satellite site (see glossary) listed by address on the facility's operating certificate or[, prior to April 1, 2016, off-site,] by:

• **Paragraphs 679.1(c)(1) – (4) and (8) are amended to read as follows:**

- (1) Providing clinical services of principally a habilitative clinical nature to ameliorate or limit the disabling condition or other disease, illness, or condition through the provision of professional assessments and therapies, to persons, who because of their developmental disability, require such services[to remain in or move to the least restrictive residential and/or day setting; or because such services are unavailable or inaccessible in the person's community].

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

- (2) Providing services to a person through their[his/her] collateral(s) for the purposes of enhancing the effectiveness of the treatment; enabling the person to remain in the family or placement setting as long as desired; and/or enhancing the person's quality of life.
- (3) Providing convenient access to clinical services, including services available at nontraditional business hours and[, in nontraditional settings,] making use of treatments delivered at certified satellite sites[and, prior to April 1, 2016, when authorized, off-site].
- (4) Providing access to clinical services to a person [located in his/her residence or other temporary location] via telehealth (see glossary) when the services provided are pursuant to section 2999-cc(3) of the Public Health Law and comply with all applicable rules and guidance[while the provider is located either at a main clinic site certified by OPWDD or at a certified satellite site (see glossary)].

* * *

- (8) Providing clinical services that are not duplicative of Early Intervention services authorized through an Early Intervention Plan (EIP) or School or Preschool Supportive Health services authorized through an Individualized Education [Plan]Program; or duplicative of services available through the Intermediate Care Facility for Individuals with Intellectual Disabilities program, OPWDD operated or certified residential or day programs, or OPWDD funded Home and Community Based Services (HCBS).

- **Paragraph 679.1(c)(9) is added to read as follows:**

(9) Responding to operational evaluation requests, from OPWDD to confirm the operational status of sites and comport with a review of the available services at each site, as specified on the Operating Certificate. As a result of the operational evaluation requests, if adjustments or modifications should be indicated the agency must follow established OPWDD processes in accordance with Certificate of Need regulations in section 620.9 of this Title to make relevant changes to the agency operating certificates.

- **Subdivision 679.2(a) is amended to read as follows:**

- (a) The following sections of the Mental Hygiene Law authorize the commissioner to establish separate classes of operating certificates for facilities serving persons with developmental disabilities determined by OPWDD through the eligibility process and to establish the standards governing such facilities.

- **Subdivision 679.2(e) is repealed and subdivisions (f) through (h) are relettered (e) through (g).**

- **Subdivisions 679.3(e) - (h) are amended to read as follows:**

- (e) The governing body shall ensure that admission and discharge policies, including those pertaining to eligibility for service/treatment and a description of available services, shall

be written and be made available to staff members; persons served and their families; cooperating/referring agencies; and as requested, to the general public. Discharge policies must include provisions for making arrangements for the continuation of care to a more appropriate provider to ensure that referred individuals are not abandoned or left without care upon discharge.

- (f) The governing body of a facility providing medical or dental care in circumstances where such care represents the person's principal source of health care, shall ensure the development of policies and the implementation of related activities [which]that:
- (1) assure continuity of care in the area of medical services, including access to emergency medical care;
 - (2) for medical care, address the parameters associated with managed health care (see section 679.99[e] of this Part);
 - (3) ensure that its medical/dental practitioners are current in their treatment practices and knowledge, particularly with respect to serving persons with developmental disabilities as determined by OPWDD through the eligibility process;
 - (4) ensure access to specialist care and consultation, when needed;
 - (5) access outside peer credential review of physicians and dentists;
 - (6) reinforce the importance of quality hands-on medical/dental care; and
 - (7) provide opportunities for medical/dental training placements in the clinic treatment facility itself.
- (g) Ongoing direction and control of the facility's delivery of services and treatments shall be delegated by the governing body to an appropriately qualified administrator (see glossary) who may also function as the clinic's medical or dental director (see glossary). If the administrator is not a physician/or dentist, [he or she]they shall:

* * *

- (h) An appropriately qualified physician or dentist shall be responsible for the ongoing direction of all clinical services. The medical director shall be licensed to practice medicine in New York State (NYS) and shall be designated as responsible for maintaining the general health conditions and practices of the program. If the clinic provides dental care, the medical director may be a dentist. A NYS licensed physician,

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licensed physician assistant, licensed nurse practitioner, or licensed dentist serving under or by the direction of the medical director may be responsible for the ongoing direction of all clinical services. Duties and/or responsibilities that may be provided by a licensed physician, licensed physician assistant, licensed nurse practitioner, or licensed dentist under or by the direction of the medical director include, but are not limited to, the completion of the annual assessment, review of treatment plans, and ordering treatment services within the scope of their licensed discipline. The medical director or a licensed physician or dentist shall remain responsible for seeing each patient at least once, prescribing the type of care provided, and, if the services are not limited by the prescription, periodically reviewing the need for continued care.

• **Subparagraphs 679.3(i)(1)(i) – (v) are amended to read as follows:**

- (i) The medical director shall be at least .10 FTE for programs that are required to complete 300 annual physician assessments or less per year (see subdivision (t) of this section for requirements related to physician assessments). The medical director shall be at least .05 FTE for programs that are required to complete 300 annual physician assessments or less per year if the medical director has a licensed physician, licensed physician assistant, licensed nurse practitioner, or licensed dentist that is at least .05 FTE and is serving under or by the direction of the medical director for clinical services.
- (ii) The medical director shall be at least .20 FTE for programs that are required to complete more than 300 and up to and including 600 annual physician assessments per year. The medical director shall be at least .10 FTE for programs that are required to complete 300 and up to and including 600 annual physician assessments or less per year if the medical director has a licensed physician, licensed physician assistant, licensed nurse practitioner, or licensed dentist that is at least .10 FTE and is serving under or by the direction of the medical director for clinical services.
- (iii) The medical director shall be at least .30 FTE for programs that are required to complete more than 600 annual physician assessments per year. The medical director shall be at least .15 FTE for programs that are required to complete over 600 annual physician assessments or less per year if the medical director has a licensed physician, licensed physician assistant, licensed nurse practitioner, or licensed dentist that is at least .15 FTE and is serving under or by the direction of the medical director for clinical services.
- (iv) For programs operating less than five days per week on a regular basis, the medical director coverage, or the medical director coverage with coverage provided by a licensed physician, licensed physician assistant, licensed nurse practitioner, or licensed dentist under or by the direction of the medical director shall be at least proportional based on the criteria stated in subparagraphs (i), (ii) and (iii) of this paragraph.

- (v) Nothing herein shall preclude the medical director as a physician from delivering appropriate and needed medical services, including the annual physician assessments, for up to one half of [his/her]their assigned time. If the services are not principal source primary medical care, the requirements at subdivisions (f), (k) and (n) of this section need not be met.

- **Subdivision 679.3(k) is amended to read as follows:**

- (k) Persons receiving medical services from a clinic treatment facility certified pursuant to this Part, and such services constitute the person's principal source of health care, shall have such services delivered pursuant to an individualized managed health care plan [which]that incorporates the requirements at section 679.99(e) of this Part.

- **Subdivision 679.3(l) is amended to read as follows:**

- (l) The facility's staffing plan shall include the representation of professional staff members qualified in at least four of the following disciplines: dentistry (and dental hygiene services); medicine (including any appropriate specialty); nursing; occupational therapy; physical therapy; psychology; rehabilitation counseling; social work; and speech and language pathology[therapy]. As permitted by New York State law pertaining to the practice of disciplines, and/or authorized by this Part, facilities may utilize assistants, physician assistants; nurse practitioners, and applied behavioral sciences specialists (see glossary) to deliver services. Clinics may utilize the services of students-in-training to deliver billable services in accordance with the following requirements:

- **Subparagraphs 679.3(l)(3)(i) – (iii) are amended to read as follows:**

- (i) the service recipient and [his or her]their correspondent or referral agent is notified prior to receipt of care that the service will be provided by a student (nonlicensed/credentialed party) under supervision; and
- (ii) the recipient is advised that [he or she]they may reject service provided by a nonlicensed/credentialed party at any time without prejudice or loss of entitlement to service; and
- (iii) there is a means to ensure that the licensed/certified professional providing student-in-training supervision, is fully aware that [he/she is]they are directly responsible for the quality of care delivered by the supervised student.

- **Subdivisions 679.3(p) and (q) are amended to read as follows:**

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(p) Any service, appropriate to the needs of the person with a developmental disability as determined by OPWDD through the eligibility process, meeting the definition of preventative, therapeutic, rehabilitative or palliative services (see section 679.99 of this Part), and delivered within the scope of the practitioner's licensure/certification, shall be allowable, providing said service(s) is identified and described within the proposal approved as part of the facility's certification of need application. New or revised services shall be submitted and approved by OPWDD prior to such services being offered or delivered by the facility.

(q) All initial treatment plans and referrals for services, regardless of source, shall be reviewed and approved by the medical director or other [designated]licensed physician[/dentist] or licensed dentist serving under or by the direction of the medical director. Such review shall not be interpreted as meaning that a facility certified pursuant to this Part has responsibility for services or treatment plans delivered by others not under its auspices. Further reviews of treatment plans may be completed by a licensed physician assistant, licensed nurse practitioner, or practitioner of the healing arts designated by the medical director. Treatment provided by a licensed medical physician shall be ordered by a provider of the same professional discipline and licensure.

• **Subdivisions 679.3(r) – (u) are amended to read as follows:**

(r) Ongoing treatment (see glossary) services shall be provided principally to persons with a diagnosis of developmental disability as determined by OPWDD through the eligibility process and, as necessary and appropriate, to their collaterals for the purposes of enhancing treatment results for the person. Persons (including children) without a known developmental disability diagnosis may only be admitted for the sole purpose[s] of a clinic intake for diagnostic and evaluation services to determine whether or not a condition of developmental disability diagnosis exists when an evaluation is needed for the OPWDD eligibility determination process. Diagnostic and evaluation services for the sole purpose to determine whether a person has a developmental disability diagnosis, when needed for the OPWDD eligibility determination process, must include a diagnostic interview or participation by a Licensed Psychologist or Licensed Clinical Social Worker during the evaluation process. Children, up to the age of eight (8) years old, determined provisionally eligible by OPWDD may receive both evaluation and treatment services. [However, where it can be substantiated through appropriate clinical documentation that because of unique and individual circumstances a diagnosis cannot be made due to maturational delays or the complexities of the condition which make it resistive to diagnoses by available clinical assessment processes, persons up to their eighth birthday may continue to be served where a substantiated suspicion of developmental disability exists.

(1) For persons five years of age or younger, at least a substantiated suspicion of a developmental disability or documented indicator of such risk, shall exist in order for that person to remain eligible for further treatment as a participant with developmental disabilities.

- (2) For persons six years of age and older, the clinical assessment shall substantiate a specific developmental disability diagnosis in order for the person to remain eligible for further treatment as a participant with developmental disabilities.]
- (s) No person shall be admitted for a service unless [he/she]they meet[s] the facility's admission criteria, there is a documented need for the service, and the program has sufficient capacity to provide the service. This shall not be interpreted to preclude conducting a clinic intake for the purposes of determining the appropriateness of someone for admission.
- (t) All persons shall be assessed annually by the medical director or other designated clinic licensed physician, licensed physician assistant, licensed nurse practitioner, or licensed dentist for dental services as to the person's continuing need to be served by the clinic.
- (u) Clinics providing services in NYS Regents designated physician shortage areas, may provide services to persons without a diagnosis of developmental disability in accordance with such person's assessed needs. In such cases, persons with a diagnosis of developmental disability as determined by OPWDD through the eligibility process shall receive priority for services whenever the facility's service capacity is limited.

- **Subdivision 679.4(b) is amended to read as follows:**

- (b) OPWDD shall verify that the governing body has established, maintained, and implemented a plan of organization for the facility [~~which~~that accurately indicates lines of accountability, the nature of professional responsibility to be exercised, and the professional qualifications required.

- **Subdivision 679.4(h) is amended to read as follows:**

(h) OPWDD shall verify that all treatment (~~except treatment provided by a licensed medical physician~~) has been given upon the written order of a licensed physician, licensed physician assistant, licensed nurse practitioner, or licensed[or] dentist for dental services[, at least annually or when there are significant changes to the ongoing treatment plan,] and is delivered under the supervision of a licensed physician, licensed physician assistant, licensed nurse practitioner, licensed dentist, or practitioner of the healing arts (as described in section 679.3(j) of this Part[see glossary]) subsequent to an intake visit assessment or an intake assessment review documenting the need for admission to the clinic. Treatment provided by a licensed medical physician shall be ordered by a provider of the same professional discipline and licensure.

- **Subdivision 679.4(j) is amended to read as follows:**

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

(j) OPWDD shall verify that there is a clinical record maintained in a confidential manner for each person admitted to the facility [which]that contains at least:

- **Paragraphs 679.4(j)(1) and (3) are amended to read as follows:**

- (1) identification information about the applicant/service recipient and [his or her]their family and services received outside of the clinic (including identification of practitioner or responsible entity);
- (3) initial, interim, and/or final diagnosis(es), as applicable, set forth in appropriate official terminology, including those related to the person's developmental disability, other cognitive or intellectual[mental] disability(ies) if present, behavioral health condition(s)/diagnosis(es), and medical condition(s)/diagnosis(es);

- **Subdivision 679.4(k) is amended to read as follows:**

(k) There shall be a written plan of services [which]that [also] documents that the outcomes and/or course of treatment has been reviewed as to the achievement of said outcomes and the need for initiated and continued course of treatment pursuant to the following schedule:

- (1) as specified by the treating licensed physician or licensed dentist, for medical or dental treatment. Treatment provided by a licensed medical physician shall be ordered by a provider of the same professional discipline and licensure; and
- (2) initial treatment plans must be completed prior to the start of a treatment course and at least [semi-]annually by the medical director or treating practitioner [or treatment coordinator]in consultation with the person receiving the service and/or their collaterals (unless the person is an adult, has the capacity to object, and does so object to the provision of such services), for all other ongoing rehabilitation/habilitation services (see section 679.3(j)(2) of this Part) or health care services (see section 679.3(j)(4) of this Part)[of six months or longer duration].
- (3) Treatment plan reviews must occur at least annually though may occur at increased frequency as indicated by the payor rules and regulations, at the addition of a new service(s), at the termination of current service(s), or when the provider or individual indicates substantive changes to the treatment course have occurred and are not addressed by the current treatment plan.
- (4) Under or by the direction of the medical director, treatment plan reviews may be conducted by a clinic's licensed physician, licensed physician assistant, licensed nurse practitioner, or licensed dentist except when that review is of a treatment plan that they were responsible for writing.

- **Subdivisions 679.5(a) and (b) are amended to read as follows:**

(a) The unit of service shall be a clinic visit as defined below whether the service is delivered at the main certified site, [or]at a certified satellite site or, through telehealth when the services are provided pursuant to section 2999-cc(3) of the Public Health Law and comply with all applicable rules and guidance[prior to April 1, 2016, off-site].

(b) A clinic visit is or defined as all the approved clinical services (i.e., diagnostic and evaluation services, including those for the purposes of diagnosis of a developmental disability needed for the OPWDD eligibility determination process, all treatment services for individuals with a developmental disability as determined by OPWDD through the eligibility process) provided for a person, [his/her]their collateral or potential admittee on a common date of service by practitioners of the healing arts and/or other authorized parties, except as follows:

(1) If a diagnostic and evaluation service is conducted over more than one day, the date of service for claiming purposes is the last day the service is provided.

[(2) If an on-site clinic visit is provided and claimed for reimbursement on the same day as an off-site clinic visit (as allowed prior to April 1, 2016), reimbursement for each visit is considered a separate clinic visit.]

- **Subdivisions 679.6(a) and (b) are amended to read as follows:**

(a) Cost report. Each agency that operates a clinic treatment facility certified by OPWDD shall, on an annual basis, be required to submit a cost report prepared in accordance with Subpart 635-4 of this Title, for each certified site including costs associated with any certified satellite sites[and, as allowed prior to April 1, 2016, costs associated with service delivery off-site].

(b) Each agency that operates a clinic treatment facility shall provide OPWDD information it requests, including but not limited to the following: services provided by CPT/HCPCS and/or CDT codes, where such services were delivered, including the location of both the provider and the individual when services are delivered via telehealth, (i.e., on-site or at a certified satellite site[, or, prior to April 1, 2016, off-site]) and revenues by funding source or payee. These data shall correspond to the identical time period of the cost report.

- **Paragraphs 679.7(a)(2) and (3) are amended to read as follows:**

(2) If the facility is authorized to provide any [medical or dental care]service that is authorized under the Medicare provisions of the Social Security Act[as a person's principal source of such care], the facility [shall]must become an approved Medicare provider of such services pursuant to program requirements and submit appropriate claims for Medicare reimbursement [as appropriate]in any instance in which a patient is eligible for benefits under such program.

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(3) Clinic services shall be delivered in accordance with the person's clinic treatment plan (see section 679.4(j) and (k) of this Part), except for the sole purpose of a clinic intake [and]for diagnostic and evaluation services when needed for the OPWDD eligibility determination process, to determine whether or not a condition of a developmental disability diagnosis exists.

- **Subdivision 679.7(b) is amended to read as follows:**

(b) In order for the clinic treatment facility to be reimbursed for any clinic service delivered in an OPWDD-certified residence, as allowed prior to April 1, 2016, the clinic treatment facility shall retain a written description of the clinic services delivered in each residence, specifying the persons who received services, the specific services that were delivered to each person, and the justification for delivery of clinic services in the residence.[The clinic treatment facility shall retain the consent of the executive director (or his/her designee) of the agency operating the residential facility or sponsoring agency for the delivery of such clinic services as described. Such consent was required on at least an annual basis. Consent was required before a new person began receiving clinic services at the residence and before any person began receiving a type of clinic service at the residence for which there was no current consent.]

- **Subdivisions 679.8(a) and (b) are amended to read as follows:**

(a) Definitions. Definitions pertaining to the Ambulatory Patient Group (APG) classification and reimbursement methodology can be found in 10 NYCRR section 86-8.2. Additional definitions are as follows:

(1) Coding improvement factor. A numeric value [which]that OPWDD may use to adjust for more complete and accurate coding for visits using[upon implementation of] the APG reimbursement system.

(2) Evaluation and management (E&M) services. Services and/or consultations as designated by CPT code provided by a licensed physician, licensed nurse practitioner or an appropriately supervised licensed physician assistant.

(b) Ambulatory Patient Groups (APG). For services[provided on or after July 1,2011, the operating component of] rates shall be reimbursed using a methodology that is prospective and is based upon the APG classification and reimbursement system as described in 10 NYCRR Sections 86-8.2, 86-8.7, 86-8.9(a), 86-8.10 and 86-8.11(b).

- **Paragraph 679.8(c)(1) is amended to read as follows:**

(1) The base rates. There shall be a separate base rate for each peer group. OPWDD's three peer groups and base rates are as follows:

- (i) Peer Group A. Except for clinics described in subparagraph (iii) of this paragraph, Peer Group A shall be comprised of clinic treatment facilities that have the certified main clinic site located in New York City or Long Island, *i.e.*, the counties of New York, Bronx, Kings, Queens, Richmond, Nassau and Suffolk[. The base rate for Peer Group A is \$180.95].
- (ii) Peer Group B. Except for clinics described in subparagraph (iii) of this paragraph, Peer Group B shall be comprised of clinic treatment facilities that have the certified main clinic site located in a county other than those identified in subparagraph (i) of this paragraph[. The base rate for Peer Group B is \$186.99].
- (iii) Peer Group C. Clinic treatment facilities that are affiliated with and serve two major hospital systems and have the following Federal designations[as of July 1, 2011]:
 - (a) University Center for Excellence in Developmental Disabilities Education, Research and Service (UCEDD) by the United States Department of Health and Human Services' Administration on Developmental Disabilities (ADD); and
 - (b) National Institutes [for]of Health's (NIH's) Eunice Kennedy Shriver National Institute of Child Health and Human Development Intellectual and Developmental Disability Research Center (IDDRC); and
 - (c) Maternal and Child Health Bureau (MCHB), Health Resources and Services [Agency of the United States Public Health Service]Administration (HRSA), Leadership Education in Neurodevelopmental and Related Disabilities (LEND) training program.

[The base rate for Peer Group C is \$270.50.]

- **Subdivision 679.8(d) is amended to read as follows:**

- (d) Capital cost component. If a visit includes a service [which]that maps to an APG [which]that allows a capital add-on, there shall be a capital add-on to the operating component of the APG payment for the visit.
 - (1) The capital cost component shall be a fixed amount equal to the capital cost component of the clinic's regular visit fee[in effect on June 30, 2011].
 - (2) [Beginning July 1, 2012,]OPWDD shall subject the capital cost component to an annual review for certain clinic treatment facilities.

- **Subparagraph 679.8(d)(2)(i) is amended to read as follows:**

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

(i) Clinics specifically subject to review are those [which]that:

• **Subclause 679.8(d)(2)(iii)(b)(2) is amended to read as follows:**

(2) the amount reimbursed to clinic treatment facilities certified by OPWDD [which]that do not meet the criteria specified in subparagraph (i) of this paragraph.

• **Subdivision 679.99(c) is amended to read as follows:**

(c) *Arts, licensed practitioner of the healing.* Anyone who holds licensure/certification appropriate to [his or her]their discipline in medicine, dentistry, and/or physical or mental health-related disciplines as identified at section 679.3(j) of this Part or otherwise authorized by this Part.

• **Paragraph 679.99(d)(3) is amended to read as follows:**

(3) The governing body of a State-operated clinic treatment facility is the central office administration of OPWDD and includes the administration by the Developmental Disabilities State Operations Office (DDSOO) director and [his/her]their delegate(s).

• **Subdivision 679.99(e) is amended to read as follows:**

(e) *Care, managed health.* The use of a service delivery management system for medical care (see section 679.3(k)[(2)] of this Part) delivered by the Part 679 certified facility, designed to minimize the need for accessing hospital emergency room services and the length of stay for inpatient hospital care as well as ensuring access to appropriate health care. Nothing herein shall preclude a person's access to emergency medical care as appropriate, solely because of [his or her]their disability or because [he or she is]they are receiving medical care from a Part 679 clinic. It includes the following components applicable to every person admitted for and receiving medical care as [his or her]their principal source of health care in an OPWDD Part 679 certified clinic treatment facility:

(1) An individually assigned primary care physician, licensed physician assistant, licensed nurse practitioner or licensed dentist, responsible for coordinating all aspects (including access to emergency medical care) of a person's medical care for the purposes of maintaining continuity of care and developing an individualized managed health care plan.

(2) Access to specialty medical care by a referral by the primary care physician, licensed physician assistant, licensed nurse practitioner or licensed dentist. Referrals for a second opinion also shall be made by the primary care physician, licensed physician assistant, licensed nurse practitioner or licensed dentist. Treatment provided by a licensed medical physician shall be ordered by a provider of the same professional discipline and licensure.

(3) Provision of treatment coordination (internal to the clinic facility) of the clinic's services by a designated clinic staff member for persons receiving services from the facility.

(4) After office hours, weekend and holiday service or phone availability. Availability of a back-up physician in circumstances where the assigned primary care physician, licensed physician assistant, licensed nurse practitioner or licensed dentist is unavailable.

• **Subdivision 679.99(f) is amended to read as follows:**

(f) *Collateral.* A party or parties:

- (1) having a care-giving relationship with the person receiving services; and
- (2) who needs ancillary support and reinforcement to maximize the potential benefit the relationship may bring to the person.

For the purposes of this Part, a collateral may only be a member of the family, defined as biological/adoptive family, guardian, foster care parent, or family care provider of a person who is receiving services; or, a nonrelated party who has an established long term care-giving relationship with the person. The purpose of said services to a collateral shall be limited to those which contribute to meeting the identified needs of the admitted person with developmental disabilities.

• **Subdivision 679.99(g) is amended to read as follows:**

(g) *Commissioner.* The commissioner of the New York State Office for People With Developmental Disabilities, or [his or her]their designee.

• **Subdivision 679.99(h) is amended to read as follows:**

(h) *Coordinator, treatment.* The single professional or otherwise qualified (*i.e.*, holding at least a baccalaureate degree or a license as a registered nurse) staff member, by whatever name known at the clinic, designated for each person receiving services to coordinate the provision of all treatments, activities, experiences, or therapies as prescribed through the clinic's admission process and by the treating professionals in the person's treatment plan. In this circumstance, "coordinate" includes (as appropriate to the person in question), but is not limited to, checking on maintenance of appointments; obtaining information to address any recipient questions; transmitting information to referral sources, the person's outside case manager, and/or other interested and appropriate parties; ensuring progress notes are up-to-date in the clinical record; following-up on outside referrals by the clinic for ancillary services and ensuring that any resulting information is transmitted to the treating clinician and is entered into the record in a timely manner; evaluating the person's/collateral's satisfaction with the services(s); reviewing the clinical record with the person and providing explanations of its content; bringing any concerns of the person to the attention of appropriate clinical personnel and following-up to ensure resolution; being aware of other services outside the clinic received by the person and ensuring that there is no duplication service; ensuring that the person's annual reassessment under or by the

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direction of the medical director by the licensed physician, licensed physician assistant, licensed nurse practitioner, or licensed dentist by whatever title known, and any other assessment information contained in the clinical record continues to document the need for the clinic service(s) provided, etc. The treatment coordinator also functions as the facility's liaison to the person's [comprehensive Medicaid]case manager, if applicable, and to other providers of service.

- **Subdivision 679.99(j) is amended to read as follows:**

- (j) *Disability, developmental.* A developmental disability as determined by OPWDD through the eligibility process and defined in section 1.03(22) of the Mental Hygiene Law.

- **Subdivisions 679.99(k) – (m) are amended to read as follows:**

- (k) *Facility.* Any place certified or operated by OPWDD in which either residential or nonresidential services are provided to persons with developmental disabilities, as determined by OPWDD through the eligibility process, in accordance with the provisions of the applicable facility class regulation. See also “Facility, clinic treatment”
- (l) *Facility, clinic treatment.* A certified physical space or setting and/or its services including any certified satellite location(s) and providing clinical services pursuant to this Part, principally to persons with developmental disabilities either as determined by OPWDD through the eligibility process or in need of a diagnosis of a developmental disability for the OPWDD eligibility determination process, where such services are provided on an outpatient (i.e., nonresidential) basis.[For clinics authorized to deliver services on an exclusively off-site basis (as allowed prior to April 1, 2016), the term facility includes the headquarters for administration, management (including clinical records management), and clinician office space which holds an appropriate certificate of occupancy in accordance with the requirements of the locality having jurisdiction.]
- (m) *Intake, clinic.* A preliminary clinical interview/assessment of the potential admittee, [his/her]their collateral, and/or the referral source conducted by a licensed professional and/or other authorized party pursuant to this Part for the purpose of determining the appropriateness of admission to the clinic treatment facility.

- **Subdivision 679.99(r) is amended to read as follows:**

- (r) *Professional.* For the purposes of this Part, anyone who by virtue of training, licensure, certification and/or applicable State law and/or regulation (including this Part), has the authority to perform those activities granted or presumed pursuant to community practice standards by the professional discipline in question. For State-operated clinics, it also includes those who meet the Civil Service qualifications at the professional level appropriate to their discipline. In addition, it shall include the following clinical and professional treatment areas with their associated qualifications, except diagnosis:

- **Paragraph 679.99(r)(1) is amended to read as follows:**

(1) Applied behavioral sciences specialist – a person with a master’s degree from an accredited program in a clinical and/or treatment field of psychology and/or a New York State license in mental health counseling, who has training in assessment techniques and behavioral program development and who functions (but may not diagnose) under the supervision of a licensed psychologist[—someone having a master's degree in a clinical and/or treatment field of psychology from an accredited institution, who has training in assessment techniques and behavioral program development and who functions under the supervision of a licensed psychologist].

• **Paragraphs 679.99(s)(1), (3), and (4) are amended to read as follows:**

(1) *Diagnostic.* Any medical/clinical procedures or supplies recommended by a physician or other licensed practitioner of the healing arts, within the scope of [his or her]their practice under State law, to enable [him or her]them to identify the existence, nature or extent of illness, injury, primary developmental disability (when needed for the purpose of the OPWDD eligibility determination process), or other health condition in the person.

(3) *Preventative.* Services provided by a physician or other licensed practitioner of the healing arts within the scope of [his or her]their practice under State law to:

(4) *Rehabilitative/habilitative.* Any medical or remedial services recommended by a physician or other licensed practitioner of the healing arts, within the scope of [his/her]their practice under State law, for a maximum reduction of the effects of physical or mental disability and restoration of the person to [his or her]their best possible functional level. It includes the fitting, training and modification of assistive devices by licensed practitioners or trained others under their direct supervision.

• **Subparagraphs 679.99(t)(1)(i) and (ii) are amended to read as follows:**

(i) dedicated space[, which] that is used exclusively for provision of Article 16 clinic treatment services; or

(ii) designated space[, which] that is multi-purpose space [that can]to be used by other programs or services based on a written arrangement, including a schedule that identifies the days and times when the space is used for provision of article 16 clinic treatment services.

• **Subdivisions 679.99(u) and (v) are amended to read as follows:**

(u) *Specialist, applied behavioral sciences.* A person with a master's degree from an accredited program in a clinical and/or treatment field of psychology and/or a New York State license in Mental Health Counseling, who has training in assessment techniques and behavioral

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

program development and who functions (but may not diagnose) under the supervision of a licensed psychologist.

- (v) *Supervision.* Authoritative procedural guidance by a professional for the accomplishment of a function or activity within [his/her]~~their~~ sphere of competence (as defined in the New York State Education Department licensing/certifying regulations), with initial direction and periodic inspection of the actual act of accomplishing the function or activity. [Unless otherwise stated in regulations, the supervision must be on the premises if the party does not meet the assistant-level qualifications specified.]