



## Department of Health

ANDREW M. CUOMO  
Governor

HOWARD A. ZUCKER, M.D., J.D.  
Commissioner

SALLY DRESLIN, M.S., R.N.  
Executive Deputy Commissioner

September 1, 2015

Honorable Thomas P. DiNapoli  
Comptroller  
NYS Office of the State Comptroller  
110 State Street  
Albany, New York 12236

Dear Comptroller DiNapoli:

Pursuant to the provisions of Section 170 of New York State Executive Law, I hereby transmit to you a copy of the New York State Department of Health's comments related to the Office of the State Comptroller's final audit report 2014-S-27 entitled, "Facility Structure, Safety, and Health Code Waivers."

Please feel free to contact Amy Nickson, Assistant Commissioner, Office of Governmental and External Affairs at (518) 473-1124 with any questions.

Sincerely,

*Howard Zucker M.D.*  
Howard A. Zucker, M.D., J.D.  
Commissioner of Health

Enclosure

cc: Ms. Nickson

**Department of Health  
Comments on the  
Office of the State Comptroller's  
Final Audit Report 2014-S-27 entitled,  
"Facility Structure, Safety, and Health Code Waivers"**

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The following are the Department of Health's (Department) comments in response to the Office of the State Comptroller's (OSC) Final Audit Report 2014-S-27 entitled, "Facility Structure, Safety, and Health Code Waivers."

**Comments:**

The Department continues to use the audit findings to inform and improve its processes. The Department strongly believes that its current practices, as part of its multi-pronged oversight of health care facilities, ensure compliance with standards. The Department continues to refine its policies and procedures to ensure timely and effective processing of waiver requests, monitoring of approved waivers, and management of the waiver-processing program.

The Department is committed to protecting the health and safety of everyone who receives care and services from health care providers licensed under Article 28 of the Public Health Law. The Department's Office of Primary Care and Health Systems Management (OPCHSM) is responsible for licensing, inspecting, and monitoring these health care providers to ensure that providers comply with federal and state requirements related to service delivery and quality.

The steps implemented by the Department have already improved its processes. The Department will continue to use the audit report recommendations to build on these actions. With respect to the specific audit report recommendations, the Department provides the updated responses below.

**Recommendation #1:**

Establish and maintain formal Department-wide waiver policies, procedures, and controls, including the assignment of responsibility for monitoring compliance and maintaining adequate documentation.

**Response #1:**

The OPCHSM has developed and implemented written policies and procedures that govern the waiver process. These policies and procedures document the practices in place to ensure effective receipt, review, determination, and monitoring of waiver requests.

Under the direction of the OPCHSM Deputy Director, these policies and procedures have been integrated into a comprehensive policy governing the waiver process. This policy was finalized and distributed to all staff on May 1, 2015. In addition, OPCHSM and its responsible units are

continually monitoring compliance and maintaining adequate documentation to ensure timely and consistent waiver processing and monitoring.

**Recommendation #2:**

After implementation, periodically evaluate all policies, procedures, and controls to ensure they are functioning as intended, and revise as needed.

**Response #2:**

The written policies and procedures are being continually reviewed and modified as needed. The review and evaluation process has been incorporated into the Divisions' internal control programs. To ensure consistency and integration, the OPCHSM Deputy Director oversees the process. The OPCHSM Deputy Director and Center Director have met twice thus far with the Division Directors to review such policies.

In addition, in April 2015, OPCHSM began a LEAN<sup>i</sup> project focusing on the waiver process. The purpose of this LEAN project is to strengthen the coordination of the review, determination, and monitoring of approved waiver requests between the Bureau of Architecture and Engineering Review (BAER) and the OPCHSM surveillance programs. The Kaizen event<sup>ii</sup>, during which staff from all affected programs will evaluate the current procedures and make recommendations for real-time implementation of recommended improvements, is tentatively scheduled for this October. Through the LEAN initiative, OPCHSM expects to further refine its procedures to improve efficiency and quality, from receipt and review by the BAER through monitoring and closure by regional office surveillance programs.

**Recommendation #3:**

Maintain a complete, accurate, and timely shared waiver database to record all waiver requests, approvals, and denials and to document completion of time-limited waivers.

**Response #3:**

OPCHSM continues to enhance its waiver tracking. The Department's Division of Hospitals and Diagnostic and Treatment Centers (DHDTC) adopted Policy 14-09 regarding waivers in January of 2015 and revised the policy in August to reflect that hospital program directors or their designee(s) and regional office staff shall review waiver tracking at least monthly to monitor for new/pending waiver applications, and to assure that follow-up visits are scheduled and have occurred on time.

In an effort to further enhance the electronic tracking of waivers, OPCHSM developed a new database module named CONSTAT (CON status) specifically designed to track waivers. The new database currently contains waivers from 2013 to the present. The database will eventually contain data on all waivers on file, which go back to 2002. Queries and reports can be developed by BAER using the new database, including all waivers by facilities, reviewer, county, regional office etc.

**Recommendation #4:**

Ensure that the Hospitals Division develops an adequate system to monitor approved waivers.

**Response #4:**

The policy and procedure implemented in January 2015 by DHDTC supports effective monitoring of approved waivers. As stated above, all three OPCHSM programs – the DHDTC, the BAER, and the Division of Nursing Homes and Intermediate Care Facilities for Individuals with Disabilities will continually review the effectiveness of existing policies and procedures and make changes to improve them, under the direction of the OPCHSM Deputy Director.

**Summary:**

The OPCHSM continues to review and refine those actions recommended by OSC to improve its processing and monitoring of waiver requests, as noted above. The audit recommendations continue to assist the Department in further improving its waiver processing and monitoring, ensuring effective compliance monitoring of health care facilities throughout the state.

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<sup>1</sup> An organizational process and way of thinking that identifies and eliminates waste, thereby speeding up processes

<sup>2</sup> A multi-day intensive study, decomposition, and re-engineering of an organizational process, typically targeting process steps, handoffs, and delays. Significant change is planned and implemented. The basic steps of an event are: project identification and planning; preparation; three-day event; and post-Kaizen implementation.