spg SACHS POLICY GROUP
60 East 42nd Street, Suite 1762
New York, NY 10165
Phone: 212 827 0660
Fax: 212 827 0667

Co-Location and Shared Space Guidelines

OVERVIEW

The New York State Department of Health (DOH), the New York State Office of Mental Health (OMH), and the New York State Office of Alcoholism and Substance Abuse (OASAS) have released guidance for Article 28, Article 31 and Article 32 licensed providers who are interested in co-locating or sharing space either with other licensed providers or with private medical practices. These shared space arrangements are intended to help integrate physical and behavioral health care, and may be used to supplement other integrated care options. The State defines "co-location" and "shared space" as follows:

- **Co-location** occurs when two or more providers are located at the same address, but each provider has its own distinct space.
- A **shared space arrangement** occurs when one provider leases part of its space to another provider, or when two or more providers lease or purchase the same space.

The guidance is available here.

Applications and Licensure

In general, all providers who co-locate or share space must be individually in compliance with all State certification, licensure, and application requirements that pertain to them. For example, a provider with an Article 31 clinic license seeking to occupy shared space with an Article 28 clinic must submit an appropriate Prior Approval Review (PAR) application to OMH to establish a new site, just as it would if the Article 28 clinic were not present. Similarly, because private medical practices are not licensed by a State agency, they do not have to submit an application if they seek to establish services in another provider's existing space.

Architectural documents submitted as part of an application must clearly delineate which space will be shared and which will be exclusive to a provider.

Licensed providers participating in shared space arrangements should ensure that there is a formal, signed shared space agreement between all providers sharing space (whether licensed or not).

OPERATIONAL RESTRICTIONS

Co-Location

Co-location arrangements are generally permitted, with the following provisos:

- Clinical staff may **not** be commingled or shared between providers. If individuals are employed by both providers, their schedules must be separate and clearly delineated.
- Other staff may **not** work simultaneously for multiple providers. This does not pertain to staff who work for the landlord and provide a contracted service to tenants (e.g., maintenance).
- Shared waiting rooms may be used (if not otherwise prohibited), but must clearly show which provider is providing care to patients. In these cases, providers may share certain resources, such as telephone and receptionist services, but must maintain accurate records to ensure no duplicate reimbursement occurs.
- Each provider must be accessible without passing through another provider's clinical space.
- Each provider must independently comply with federal and state operational requirements.

Federally-designated providers, which include federally-qualified health centers (FQHCs), FQHC lookalikes, and rural health centers (RHCs), may only share a common waiting room with a co-located provider with separate intake desks, and with an individual approval from CMS.

Shared Space Arrangements

Shared space arrangements are generally permissible for Article 28, Article 31, and Article 32 clinics with only State licenses or certifications. Other types of licensed providers may only participate in "temporally distinct" arrangements, in which the shared space is not used by both providers at the same time, such as:

- Federally-designated providers (FQHCs, FQHC lookalikes, and RHCs); and
- Ambulatory surgery centers (ASC).

Because of federal policy, the following types of providers may not in general share space, although they may lease out space to tenants:

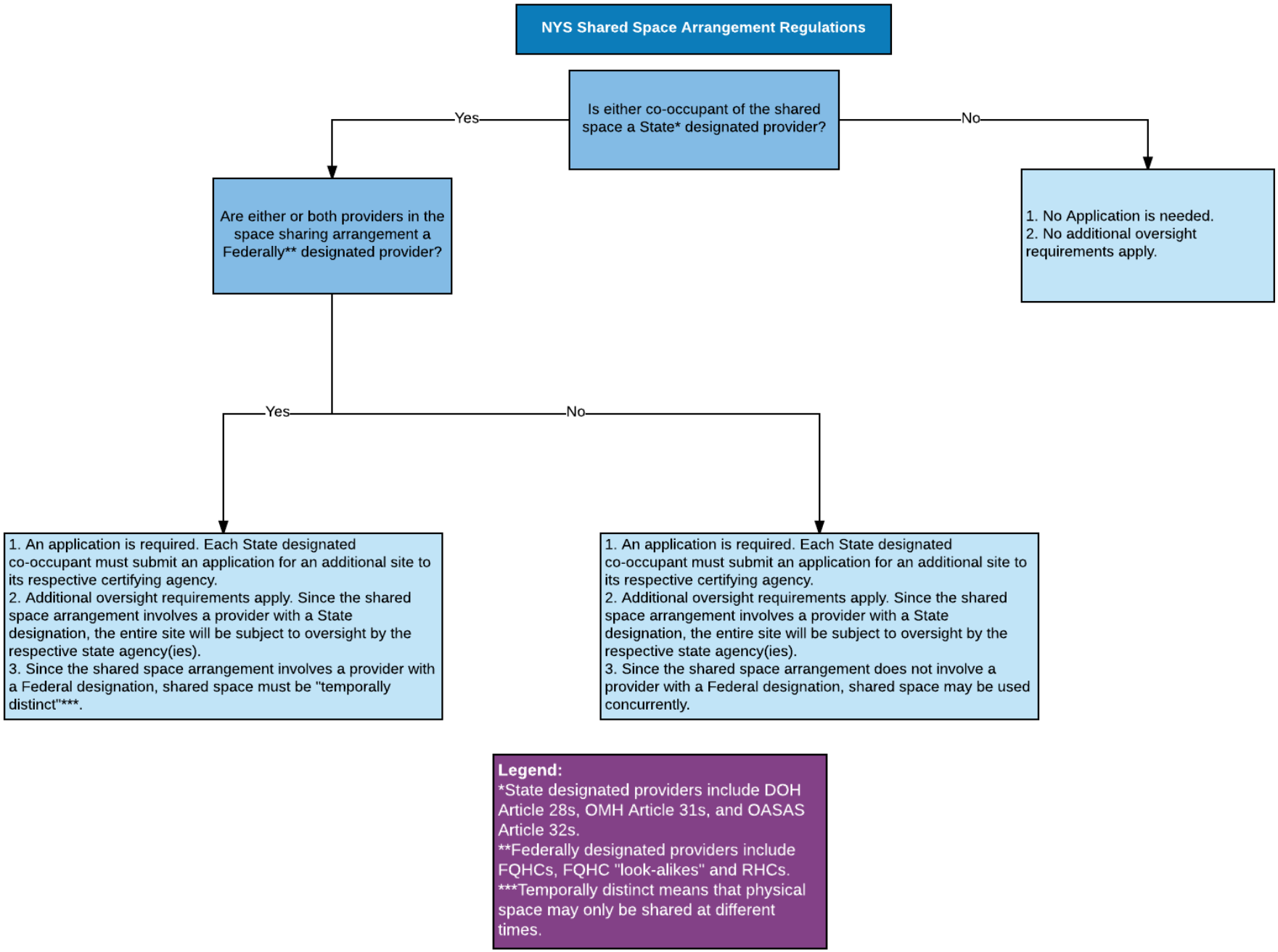
- General hospitals, including extension clinics;
- Critical access hospitals (CAH);
- Residential health care facilities (RHCF); and
- End stage renal dialysis facilities (ESRD).

Tenants must have 24/7 control over any space leased from such providers and be able to access the space without passing through any other entity's clinical space.

Providers who share space may also share or integrate medical records, to the extent permitted by law. However, providers must only be able to access protected health information for their own patients. Providers may use a shared electronic health records (EHR) platform, if compliant with other regulations. Paper records may not be stored together.

FLOWCHART

The flowchart on the following page provides an overview of major application and licensure requirements pertaining to shared space arrangements for different types of providers.


NYS Shared Space Arrangement Regulations
Is either co-occupant of the shared space a State* designated provider?
Yes
No
1. No Application is needed.
2. No additional oversight requirements apply.
Are either or both providers in the space sharing arrangement a Federally** designated provider?
Yes
No
1. An application is required. Each State designated co-occupant must submit an application for an additional site to its respective certifying agency.
2. Additional oversight requirements apply. Since the shared space arrangement involves a provider with a State designation, the entire site will be subject to oversight by the respective state agency(ies).
3. Since the shared space arrangement involves a provider with a Federal designation, shared space must be "temporally distinct"***.
1. An application is required. Each State designated co-occupant must submit an application for an additional site to its respective certifying agency.
2. Additional oversight requirements apply. Since the shared space arrangement involves a provider with a State designation, the entire site will be subject to oversight by the respective state agency(ies).
3. Since the shared space arrangement does not involve a provider with a Federal designation, shared space may be used concurrently.
Legend:
*State designated providers include DOH Article 28s, OMH Article 31s, and OASAS Article 32s.
**Federally designated providers include FQHCs, FQHC "look-alikes" and RHCs.
***Temporally distinct means that physical space may only be shared at different times.