

Modernizing Health Information Exchange:

An Overview of the Proposed SHIN-NY
Statewide Common Participation Agreement

September 18, 2024

Presenter Introductions

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Agenda

- Vision for SHIN-NY Transformation
- SCPA Overview
- Next Steps & Timeline
- Wrap-up & Q&A

Q&A Procedure

- Today's Q&A will be limited to procedural questions only. **Please submit all substantive questions and comments through the formal public comment process.**
- Please submit your questions through the Zoom Q&A function.
- NYeC will select questions to be answered live during the webinar as time allows.
- If your question was not answered during the session and you would like to follow up with NYeC, please submit your question to info@nyehealth.org.

Vision for SHIN-NY Transformation

In July 2024, the New York State Department of Health (DOH) adopted changes to the Statewide Health Information Network for New York's (SHIN-NY) governing regulations, allowing it to adapt to an evolving national HIE landscape, improve interoperability, effectively support statewide information sharing, better serve participants, and support the state's public and population health data needs.



The regulatory changes allow for the SHIN-NY to adapt to a changing HIE landscape and better serve participants and the state's health data needs by enabling:



Transitions from proprietary connections and file-based exchange to more efficient, query-based exchange. Streamlined administrative burden for consent for patients and participants.



Alignment with the federal Trusted Exchange Framework and Common Agreement (TEFCA).



Strengthened capacity to efficiently support the modernization of statewide public and population health data collection and use to meet state needs for statewide data sets.



A dynamic environment where QEs have opportunities and are motivated to support SHIN-NY Participants' HIE needs.

The SHIN-NY Will Evolve to Take Advantage of New Industry Developments

The regulatory reforms will allow the SHIN-NY to:

- Take advantage of the Trusted Exchange Framework and Common Agreement (TEFCA) to offer additional capabilities which are complimentary and address New York specific needs;
- Establish and codify a new Statewide Data Infrastructure (SDI) within the New York eHealth Collaborative (NYeC), the State Designated Entity (SDE), to support permitted state public and population health use cases;
- Require SHIN-NY Participant data be supplied to the SDI; and
- Increase SHIN-NY Participant flexibility in how their data is supplied to the SDI, whether via one of the state's six Qualified Entities (QEs) or directly, as needed, through a new "waiver" process.

TEFCA


The Office of the National Coordinator for
Health Information Technology



The SHIN-NY will adapt to take advantage of growing national and local capacity for health information exchange to increasingly focus on addressing higher-order health information needs of SHIN-NY Participants and the state.

SHIN-NY Transformation Initiatives: Statewide Common Participation Agreement (SCPA)

STATEWIDE COMMON PARTICIPATION AGREEMENT

This Statewide Common Participation Agreement (this "SCPA" or "Agreement") is made and entered into by and among New York eHealth Collaborative, Inc., a New York not-for-profit corporation with its principal place of business at 99 Washington Avenue, Suite 1750, Albany, NY 12210 ("NYeC"), the Qualified Entities (as defined at 10 N.Y.C.R.R. § 300.1), each a New York not-for-profit corporation with its principal place of business set forth at the location set forth on the signature page hereto, and any other Qualified Entity that may join this Agreement by executing an instrument of joinder agreeing to be bound by the terms of this Agreement (each, a "QE" and collectively, the "QEs"), and the individual or entity identified on an election schedule substantially in the form attached hereto as Exhibit A (as amended, modified or replaced from time to time, the "Election Schedule") (such individual or entity being a SHIN-NY participant (as defined below) and identified as "Participant"). NYeC, the QEs, and Participant may be referred to each individually as a "Party" and collectively as the "Parties." Without limiting any obligation to execute this Agreement by a certain date, the Effective Date of this Agreement shall be the later of July 1, 2023 and the date on which Participant initially executes the Election Schedule (the "Effective Date").

RECITALS

1. The New York State Department of Health ("NYS DOH"), NYeC, and QEs have been working collaboratively to develop and facilitate the use of health information technology to support the provision of better, more cost effective health care through use of the Statewide Health Information Network for New York (the "SHIN-NY") in accordance with the regulations set forth at Part 300 of Title 10 of the New York Codes, Rules and Regulations, as amended from time to time (the "SHIN-NY Regulations").
2. NYeC is the designee (the "State Designated Entity" or "SDE") of NYS DOH, under their public-private partnership, responsible for managing and overseeing the implementation of the SHIN-NY pursuant to the contract between NYS DOH and NYeC effective as of April 1, 2014, as replaced first by the contract effective as of April 1, 2018, and then by the contract effective as of April 1, 2023, and as further amended, modified, replaced and restated from time to time (the "NYeC DOH Contract").
3. The SHIN-NY is the technical infrastructure, supportive policies, and set of agreements (and the transactions, relations and data that are created by and through such policies and set of agreements) between NYS DOH, NYeC, the QEs, and SHIN-NY participants that make possible the secure electronic exchange of health information in New York State for authorized purposes, including between and among, directly or indirectly, health care providers, health plans, and other organizations, each of whom is a SHIN-NY participant.
4. To keep pace with modern data exchange practices and the shifting national landscape of health information exchange, and to reflect evolving needs of the Parties and other SHIN-NY participants for timely, efficient, and secure access to health information, NYeC and NYS DOH have been working collaboratively to develop as part of the SHIN-NY a statewide data

- As the State Designated Entity (SDE) overseeing the SHIN-NY, NYeC is responsible for developing and executing on operational, legal, and policy reforms required by regulation.
- The first of NYeC's transformation initiatives is the state-required implementation of a **Statewide Common Participation Agreement (SCPA) - a new, common legal framework for all health care organizations which are part of the SHIN-NY.**
- The SCPA will replace the numerous contracts that presently govern data exchange between Qualified Entities (QEs) and Participants across the SHIN-NY.

Why Are We Adopting the Statewide Common Participation Agreement (SCPA)?

The SCPA is intended to promote:

1. Consistency in how health information may be shared and used.
2. Efficient and transparent data governance to confirm permitted data use.
3. Consistency of service quality provided to Participants.
4. Clarity in service expectations for Participants.
5. Alignment in SHIN-NY data privacy and security standards.
6. Flexibility in how Participants connect and contribute data to the SHIN-NY.
7. Efficiency in how Participants – particularly those serving multiple regions – engage with the SHIN-NY
8. Adaptability of the SHIN-NY to current technology and data standards, infrastructure, and landscape changes.

How will Participation Agreements work?

Every SHIN-NY participant will sign a Statewide Common Participation Agreement (SCPA).

- The SCPA will be the primary agreement organizations sign to participate in the SHIN-NY.
 - **Data Contribution:** The SCPA will govern contribution by SHIN-NY participants of data to the SHIN-NY and set forth the terms and conditions regarding use of data from the SHIN-NY.
 - **State-Funded Participant Services:** SHIN-NY participants will receive State-Funded Participant Services under the SCPA, including services that provide SHIN-NY participants with access to the SHIN-NY and data from the SHIN-NY.
- A QE may offer services other than State-Funded Participant Services under a separate services agreement.
 - For example, a QE might agree to provide data from ambulance run sheets to a participating emergency department, a function that is currently not a Foundation Service. That work would occur under the general terms of the SCPA, including the SHIN-NY policies. But it would also be defined with additional terms in a Services Agreement, it could include a service fee, and it would be executed separately by the parties.
 - Participants can sign Services Agreements with any QE and with multiple QEs.
- The SCPA will rely on a statewide patient consent registry. QEs will be required to rely on this statewide registry.

SCPA Overview

Table of Contents

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- Participant Election
- Standard Operating Procedures (SOPs)
- Data Contribution
- Types of Services
- Privacy and Security
- Permitted and Prohibited Purposes
- Indemnification, Limitation of Liability, and Insurance

Parties to the SCPA



SCPA Parties consist of:

- The Participant (provider, public health agency, health plan, social service organization, social care network, etc.)
- All six QEs
- NYeC

The QEs and NYeC are collectively referred to as the Health Information Networks (HINs).



Having all QEs and NYeC sign the agreement means:

- All HINs contractually agree to protect the data of each Participant.
- Participants have the option of receiving services from more than one HIN, or switching HINs, without having to sign a new agreement.

Participant Election

Participant would elect at least one HIN for a data connection by filling out an “Election Form.” This would be the **“Designated HIN.”**



Selecting a Designated HIN:

- **Most Participants will have one Designated HIN:** Participants who do not qualify for a connectivity waiver under the SHIN-NY regulation would pick one of the six QEs to which Participant will contribute data and from which Participant will receive State-Funded Participant Services.

Selecting a Servicing HIN:

- However, in some cases, a Participant may pick more than one HIN:
 - **If a Participant obtains a waiver** in accordance with the SHIN-NY regulation, the Participant could send data directly to the statewide data infrastructure (SDI) maintained by NYeC. The Participant would have one HIN that receives its data (NYeC), and another HIN that provides State-Funded Participant Services (a QE).
 - Some Participants may also **choose to receive Value-Added Services from another QE.**

Standard Operating Procedures (SOPs)

The SCPA will not contain all SHIN-NY rules. Instead, it applies a high-level framework, which will be **implemented through Standard Operating Procedures (SOPs)** adopted in accordance with the statewide collaboration process.

- This follows the TEFCA model, under which a common agreement is linked to various SOPs.
- SOPs would be amended more frequently than the SCPA itself. Such amendments would occur in accordance with the statewide collaboration process.

SOPs

The SHIN-NY and interactions in relation to the SHIN-NY are governed SHIN-NY SOPs, which may include:

List of SHIN-NY SOPs:

1	Privacy and Security Policies and Procedures*	8	Social Care Network (SCN) Disclosures
2	SDI Data Use Approval	9	Technical Standards for Interoperability and Data Sharing
3	State-Funded Participant Services Requirements for both QEs and NYeC (will modify existing Qualified Entity Minimum State-Funded Services Technical Requirements*)	10	Insurance Requirements, Indemnification, and Limitations of Liability
4	Contribution Requirements and Contribution Standards for Participants	11	Statewide Collaboration Process
5	Election Process	12	QE Organizational Characteristics Requirements*
6	Requirements for Waiver Recipients Under 10 NYCRR §300.6*	13	QE Participant Member-Facing Services*
7	Platform Technical Specifications for both QEs and NYeC	14	Oversight & Enforcement Policies and Procedures for QEs*

* Indicates existing policy guidance [available online](#); will be revised as needed to implement regulatory amendments.

Data Contribution

- **Mandate:** Participants that are data providers must contribute Core SHIN-NY Data (to be defined in an SOP) to an HIN, unless they obtain a waiver of the contribution requirement in accordance with the SHIN-NY regulation.
- **Accuracy:** Participants must use commercially reasonable efforts to ensure their data is accurate and reasonably complete.
- **Data tagging:** Participants must indicate whether their data is subject to 42 C.F.R. Part 2, the Mental Hygiene Law, or other laws specified in the SOPs.
- **Ownership:** Participants are not giving data ownership rights to HINs.

Types of Services

State-Funded Participant Services

- Services that HINs provide to Participants without charge.
- To be defined in SOPs but could include patient record lookup and ADTs (alerts).
- No need for any additional agreement.

Value-Added Services

- Optional, additional services which use SHIN-NY Data; HINs may charge a fee.
- Cannot be duplicative of state-funded services.
- Require execution of SCPA and separate services agreement between the HIN and Participant.
- Subject to same privacy/security rules.

Privacy and Security

- **SCPA imposes minimum privacy and security requirements:**
 - Compliance with applicable federal and state law.
 - Minimum security standards for both HINs and Participants.
 - Requirements for Designated HIN and Participant to report certain security incidents to one another.
 - Permitted and prohibited purposes (*see next slide*).

Note: More detailed privacy and security rules addressed in SOPs (existing SHIN-NY P&Ps).

Permitted and Prohibited Purposes

- The SOPs will provide the detailed list of permitted/prohibited purposes of data in the SHIN-NY.
- However, the SCPA sets forth certain basic rules:



Permitted purposes for data held by QE: Must allow for treatment, public health, individual access, and certain administrative purposes.



Permitted purposes for data held by SDI: Must allow for public health, Medicaid administrative activities, statewide Master Patient Index/Statewide Patient Record Lookup, QE-to-QE exchange, Statewide Consent Management, and certain administrative purposes.



Prohibited purposes: Sale of identifiable data or use of data for marketing purposes that would require a HIPAA authorization.

Indemnification, Limitation of Liability, and Insurance



Indemnification

- **Each HIN** will indemnify each Participant for:
 - BAA breaches;
 - Material non-compliance with law/SOPs;
 - Gross negligence, willful misconduct, fraud;
 - Intellectual property infringement related to their SHIN-NY platforms.
- **Participants** will indemnify each HIN for largely the same purposes (but no indemnification for IP infringement).

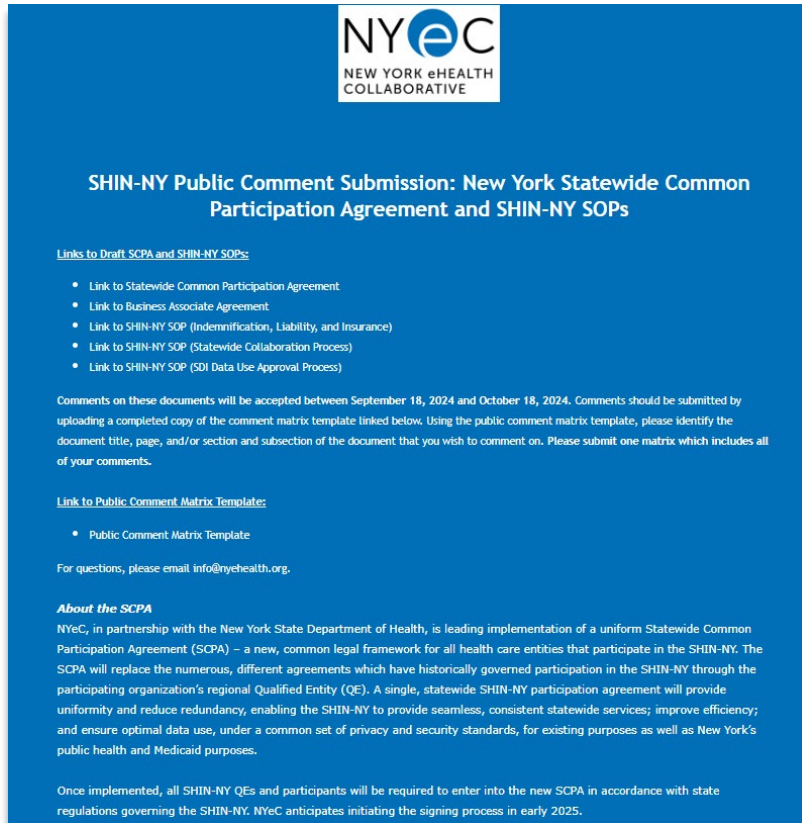


Limitation of Liability and Insurance

- Liability is capped at amount of insurance proceeds, if insurance is available.
- If insurance is unavailable, liability will be capped in amounts set forth in the SOPs.

Next Steps & Timeline

Next Steps: Agreement Review and Public Comment



NYeC
NEW YORK eHEALTH
COLLABORATIVE

SHIN-NY Public Comment Submission: New York Statewide Common Participation Agreement and SHIN-NY SOPs

Links to Draft SCPA and SHIN-NY SOPs:

- Link to Statewide Common Participation Agreement
- Link to Business Associate Agreement
- Link to SHIN-NY SOP (Indemnification, Liability, and Insurance)
- Link to SHIN-NY SOP (Statewide Collaboration Process)
- Link to SHIN-NY SOP (SDI Data Use Approval Process)

Comments on these documents will be accepted between September 18, 2024 and October 18, 2024. Comments should be submitted by uploading a completed copy of the comment matrix template linked below. Using the public comment matrix template, please identify the document title, page, and/or section and subsection of the document that you wish to comment on. Please submit one matrix which includes all of your comments.

Link to Public Comment Matrix Template:

- Public Comment Matrix Template

For questions, please email info@nyehealth.org.

About the SCPA

NYeC, in partnership with the New York State Department of Health, is leading implementation of a uniform Statewide Common Participation Agreement (SCPA) – a new, common legal framework for all health care entities that participate in the SHIN-NY. The SCPA will replace the numerous, different agreements which have historically governed participation in the SHIN-NY through the participating organization's regional Qualified Entity (QE). A single, statewide SHIN-NY participation agreement will provide uniformity and reduce redundancy, enabling the SHIN-NY to provide seamless, consistent statewide services; improve efficiency; and ensure optimal data use, under a common set of privacy and security standards, for existing purposes as well as New York's public health and Medicaid purposes.

Once implemented, all SHIN-NY QEs and participants will be required to enter into the new SCPA in accordance with state regulations governing the SHIN-NY. NYeC anticipates initiating the signing process in early 2025.

➤ Find a copy of the SCPA on NYeC's website:

<https://nyehealth.org/shin-ny/reform-initiatives/>

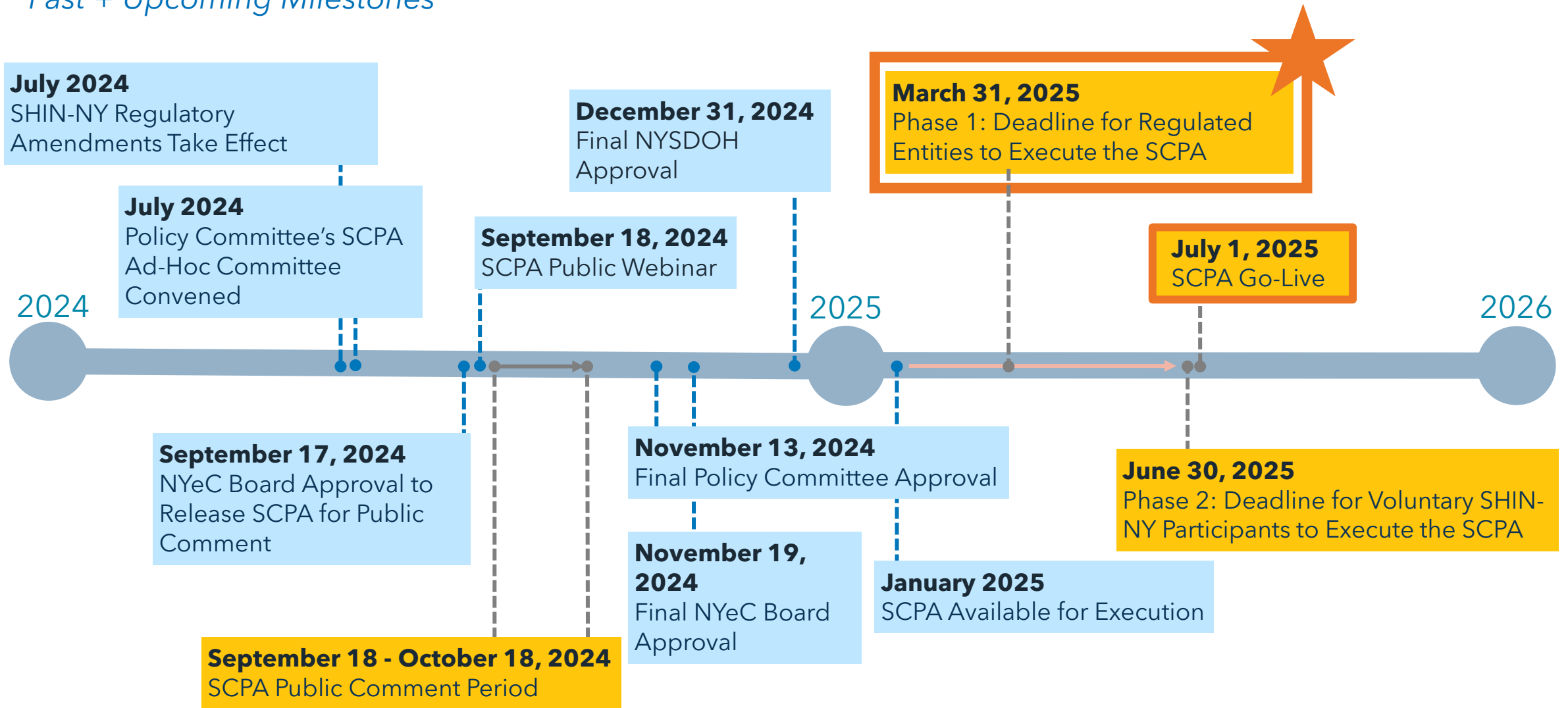
➤ Submit Public Comment on the Agreement through NYeC's public comment platform:

<https://www.surveymonkey.com/r/scpacomments2024>

➤ Email any questions to info@nyehealth.org

Statewide Common Participation Agreement (SCPA) Timeline

Past + Upcoming Milestones



Wrap-up and Q&A

Question & Answer



NYeC Webpage Resources

For more information on the SHIN-NY Transformation and SCPA, please visit the [NYeC website](#).

There you can find:

- Press releases about the latest on the SHIN-NY Transformation;
- The draft SCPA, BAA and SOPs;
- The link to submit public comment;
- And more!