

Pursuant to the authority vested in the Public Health and Health Planning Council and Commissioner of Health by sections 2803(2)(a) and 2805-y(4) of the Public Health Law, sections 405.9, 405.18, 405.19, 405.20, 407.5, and 751.5 of Title 10 of the Official Compilation of Codes, Rules and Regulations of the State of New York (NYCRR) are hereby amended, to be effective upon filing of a Notice of Adoption in the New York State Register:

Subparagraph (ii) of paragraph (11) of subdivision (b) of section 405.9 of Title 10 is amended to read as follows:

(ii) If a patient eligible for transfer to a hospital operated by the Veteran's Administration requests such transfer, hospital staff shall make such arrangements. Transfer shall be effected in accordance with paragraph [(g)(7)] (h)(7) of this section.

Subdivision (g) is relettered as (h) and a new subdivision (g) is added to section 405.9 of Title 10 to read as follows:

(g) Human Trafficking. The hospital shall provide for the identification, assessment, and appropriate treatment or referral of individuals who are suspected to be human trafficking victims, as that term is defined in section 483-aa of the Social Services Law and used in Article 10-D of the Social Services Law. The hospital shall establish and implement written policies and procedures, which shall apply to all service units of the hospital and, at a minimum, shall meet the following requirements:

(1) Policies and procedures shall provide for the identification, assessment, and appropriate treatment or referral of individuals who are suspected to be human trafficking victims;

(2) In the case of individuals who are suspected to be human trafficking victims and are under eighteen years old, policies and procedures shall provide for the reporting of such persons as an abused or maltreated child if required under Title 6 of Article 6 of the Social Services Law;

(3) The hospital shall inform individuals who are suspected to be human trafficking victims of services that may be available, including those referenced in Article 10-D of the Social Services Law. Referrals also may be made to other health care providers, appropriate state agencies, and/or other providers of services as appropriate. Such information may be provided verbally and/or in writing as appropriate;

(4) The hospital shall post the human trafficking hotline poster issued by the National Human Trafficking Resources Center, or a variation of such poster created by the Office of Temporary and Disability Assistance (OTDA) consistent with section 483-ff of the Social Services Law, whichever OTDA makes available on its website. Posters shall be placed in conspicuous locations near primary public entrances and where other posters and notices are posted; and

(5) The hospital shall establish and implement training, which may be incorporated into current training programs, for all individuals licensed or certified pursuant to Title 8 of the Education Law who provide direct patient care, and for all security personnel, regarding the policies and procedures established pursuant to this subdivision. Such training shall include training in the

recognition of indicators of a human trafficking victim and the responsibilities of such personnel in dealing with persons suspected as human trafficking victims.

Subdivision (h) of section 405.9 of Title 10 is relettered as (i) and subparagraph (ii) of paragraph (7) of the former subdivision (g), now relettered as subdivision (h), of section 405.9 of Title 10 is amended to read as follows:

(ii) Patients discharged from the hospital by their attending practitioner shall not be permitted to remain in the hospital without the consent of the chief executive officer of the hospital except in accordance with provisions of subdivision [(h)] (i) of this section.

Subparagraph (vi) of paragraph (2) of subdivision (b) of section 405.18 of Title 10 is amended to read as follows:

(vi) In accordance with the provisions of section [405.9(g)] 405.9(h) of this Part, rehabilitation therapy staff shall work with the attending practitioner, the nursing staff, other health care providers and agencies as well as the patient and the family, to the extent possible, to assure that all appropriate discharge planning arrangements have been made prior to discharge to meet the patient's identified needs.

New paragraph (6) is added to subdivision (c) of section 405.19 of Title 10 to read as follows, and existing paragraphs (6) through (10) are renumbered (7) through (11):

(6) The emergency service shall provide for the identification, assessment, and appropriate treatment or referral of individuals who are suspected to be human trafficking victims, as described in subdivision (g) of section 405.9 of this Part.

Paragraph (5) of subdivision (c) of section 405.20 of Title 10 is amended, paragraph (6) is renumbered (7) and a new paragraph (6) is added to read as follows:

(5) identification, assessment, and referral of individuals with documented substance use disorders or who appear to have or be at risk for substance use disorders, as that term is defined in section 1.03 of the Mental Hygiene Law, as described in subdivision (f) of section 405.9 of this Part; [and]

(6) compliance with the human trafficking provisions pertaining to the identification, assessment, and appropriate treatment or referral of individuals who are suspected to be human trafficking victims, as described in subdivision (g) of section 405.9 of this Part; and

Paragraph (6) of subdivision (b) of section 407.5 of Title 10 is amended to read as follows:

(6) Discharge/transfer. Hospitals shall comply with the provisions of paragraph (1) of subdivision [(h)](i) of section 405.9 of this Title concerning discharge/transfer. In addition, PCHs and CAHs shall comply with the following:

* * *

A new paragraph (8) is added to subdivision (a) of section 751.5 of Title 10, and paragraphs (8) through (16) are renumbered (9) through (17), to read as follows:

(8) the identification, assessment, and appropriate treatment or referral of individuals who are suspected to be human trafficking victims, as that term is defined in section 483-aa of the Social Services Law and used in Article 10-D of the Social Services Law; training in the recognition of indicators of a human trafficking victim and the responsibilities of such personnel in dealing with persons suspected as human trafficking victims, the reporting of individuals who are suspected to be human trafficking victims and are under eighteen years old as abused or maltreated children if required under Title 6 of Article 6 of the Social Services Law; and the posting of the human trafficking hotline poster issued by the National Human Trafficking Resources Center, or a variation of such poster created by the Office of Temporary and Disability Assistance (OTDA) consistent with section 483-ff of the Social Services Law, whichever OTDA makes available on its website, in conspicuous locations near primary public entrances and where other posters and notices are posted;

REGULATORY IMPACT STATEMENT

Statutory Authority:

Public Health Law (PHL) § 2803(2)(a) authorizes the Public Health and Health Planning Council (PHHPC) to adopt and amend rules and regulations, subject to the approval of the Commissioner of Health (Commissioner), to implement PHL Article 28 and establish minimum standards for health care facilities.

PHL § 2805-y(4) authorizes the Commissioner to issue regulations, in consultation with the Office of Temporary and Disability Assistance (OTDA) and the Office of Children and Family Services (OCFS), to implement the section, which requires “subject facilities” (general hospitals, public health centers, diagnostic centers, treatment centers, or outpatient departments) to develop, maintain, and train staff in policies and procedures for the identification, assessment, treatment, and referral of human trafficking victims.

Legislative Objectives:

This proposal will implement PHL § 2805-y, added by Chapter 408 of the Laws of 2016, to require general hospitals and diagnostic and treatment centers (D&TCs), which encompass the entities referenced as “subject facilities” in the statute, to establish policies and procedures for the identification, assessment, treatment, and referral of human trafficking victims and to train staff in such policies and procedures. The policies and procedures must include the posting of a human trafficking hotline poster consistent with the objectives of Social Services Law (SSL) § 483-ff, added by Chapter 311 of the Laws of 2016.

As explained below, a 2007 law established new crimes related to human trafficking and made various health and social services available to victims. More recent enactments reflect a

legislative desire to combat this growing issue by requiring that general hospitals and D&TCs adopt procedures to identify victims, treat and/or refer them for other services as appropriate, and post a hotline number in public areas where victims may be present.

Needs and Benefits:

The scale of the human trafficking problem constitutes a public health crisis impacting people and their families throughout New York. Legislation enacted in 2007 greatly expanded the tools available to address the issue, but human trafficking nevertheless remains prevalent. A recent study found that 69 percent of survivors surveyed indicated they had accessed health care services at some point during their trafficking. Chapter 408 of the Laws of 2016 recognized this additional opportunity to support human trafficking victims by requiring general hospitals and D&TCs to establish and implement policies to identify, assess, and treat or refer individuals suspected of being victims. Similarly, Chapter 311 of the Laws of 2016 sought to publicize information about resources for human trafficking victims in public areas where victims are likely to be present, including hospitals and clinics.

The New York State Anti-Trafficking Statute, Chapter 74 of the Laws of 2007, was enacted in light of the growing problem of human trafficking for “forced labor, involuntary domestic servitude, or sexual exploitation.” The sponsor’s memorandum noted that victims – frequently children – may be trafficked within or into the United States and New York often serves as a hub of such activity. Among other things, the law added Penal Law §§ 135.35 and 230.34 to establish the crimes of labor trafficking and sex trafficking, respectively.

The 2007 enactment, as amended in 2015, also added SSL Article 10-D providing for services to human trafficking victims. SSL § 483-aa(a) defines a “human trafficking victim” as a

victim of sex trafficking or labor trafficking under the above-referenced Penal Law sections. SSL § 483-bb provides that OTDA may contract with non-governmental entities to make available services, including case management, emergency temporary housing, health care, mental health counseling, and drug addiction screening and treatment, to “pre-certified” human trafficking victims. SSL § 483-aa(b) defines “pre-certified victim of human trafficking” as a person with a pending application for federal certification as a victim of a severe form of trafficking in persons as defined in section 7105 of title 22 of the United States Code (Trafficking Victims Protection) but has not yet obtained such certification, or a person who has reported a crime to law enforcement and it reasonably appears to law enforcement that the person is such a victim.

SSL § 483-cc sets forth procedures for confirming an individual’s status as a human trafficking victim. Under that section, a law enforcement agency or district attorney’s office that encounters a person who reasonably appears to be a human trafficking victim must notify OTDA and the Division of Criminal Justice Services (DCJS) that the individual may be eligible for services under SSL Article 10-D. To activate this process, a law enforcement agency or district attorney’s office must use the *New York State Referral of Human Trafficking Victim Form* available on the OTDA website at <http://otda.ny.gov/programs/bria/trafficking.asp>. Providers of social or legal services designated by an applicable state agency (OTDA, the Office for the Prevention of Domestic Violence, or the Office of Victim Services) that encounter a person who reasonably appears to be a human trafficking victim may submit the form if the individual consents.

Upon receipt of the form, DCJS, in consultation with OTDA and the referring agency or office, assesses whether the person meets the criteria for certification as a victim of a severe form

of trafficking in persons as defined in 22 U.S.C. § 7105 or appears to be otherwise eligible for any federal, state or local benefits and services. If so, OTDA reports such finding to the victim and the referring entity and may assist the victim in receiving services. This finding is referred to as “confirmation” as a victim of human trafficking.

Chapter 311 of the Laws of 2016 added a new SSL § 483-ff requiring OTDA to make available on its website the hotline poster issued by the National Human Trafficking Resources Center (NHTRC) or a version created by OTDA. The section provides for OTDA to consult with other state agencies to encourage that the posters be placed where human trafficking victims may be present, including hospitals and urgent care centers, in conspicuous places near primary public entrances or where posters and notices are customarily placed.

Chapter 408 of the Laws of 2016 added new PHL § 2805-y to require “subject facilities” to establish and implement policies and procedures pertaining to victims of human trafficking. New PHL § 2805-y(1) defines key terms such as “subject facilities,” defined to mean general hospitals, public health centers, diagnostic centers, treatment centers or outpatient departments, and provides that the requirements of PHL § 2805-y applies to all service units that include emergency services, pediatrics, obstetrics and gynecology, orthopedics, internal medicine, family medicine, radiology, surgery, psychiatry and dental services to the extent the facility maintains a dental clinic, center, or department on site of the facility.

New PHL § 2805-y(2) requires subject facilities to establish and implement written policies and procedures for the identification, assessment, and appropriate treatment or referral of persons suspected of being human trafficking victims, as that term is defined by SSL § 483-aa. Further, policies and procedures must provide for referral of human trafficking victims under the

age of 18 to the Statewide Central Register of Child Abuse and Maltreatment (SCR) established pursuant to SSL Title 6, Article 6 if required by that law.

New PHL § 2805-y(3) also requires subject facilities to require all “subject facility personnel” – defined as nursing, medical, social work and other clinical care personnel as well as security personnel – to complete training regarding such policies and procedures. This must include training in the recognition of indicators of a human trafficking victim and the responsibilities of such personnel in dealing with persons suspected of being victims.

Finally, new PHL § 2805-y(4) authorizes the Commissioner to identify organizations or providers that could provide training for general hospitals consistent with the new provisions. The subdivision also authorizes the issuance of regulations, in consultation with OTDA and OCFS, as necessary to carry out the new section.

Consistent with these requirements, this proposal will amend 10 NYCRR §§ 405.9, 405.19, 405.20, and 751.5 to require general hospitals and D&TCs to establish written policies and procedures for the identification, assessment, and appropriate treatment or referral of individuals who are or appear to be a human trafficking victim and train staff in such policies and procedures. Referrals may be provided verbally and/or in writing as appropriate. Policies, procedures and training must include information about the referral process overseen by OTDA and DCJS. While the proposed regulations do not mandate that hospitals and D&TCs use the *New York State Referral of Human Trafficking Victim Form*, they are strongly encouraged to do so when they can secure the victim’s consent.

In addition, there are other sources of assistance that the victim can be referred to, such as the NHTRC hotline, that provide confidential assistance to those victims who do not feel comfortable being referred to OTDA and DCJS. Further, the proposed regulation requires

posting of the NHTRC hotline poster or other variation developed by OTDA in conspicuous locations, which is consistent with the objectives of SSL § 483-ff. The poster designated for such purpose by OTDA is available at <http://otda.ny.gov/programs/bria/trafficking.asp>.

Under the law, policies and procedures and training must also include the reporting of human trafficking victims under 18 years of age to the SCR if required under SSL Title 6, Article 6. Medical and hospital personnel already serve as mandated reporters who are required to make reports to the SCR if they suspect child abuse or maltreatment. As reiterated by Chapter 408, if an individual appears to be a human trafficking victim under the age of 18, mandated reporters in hospitals and D&TCs must make a report if required under SSL Title 6, Article 6.

COSTS:

Costs to Private Regulated Parties:

While current regulations do not specifically refer to individuals who are human trafficking victims, general hospitals and D&TCs are already required to have written policies and procedures for various operational requirements, train staff in such policies and procedures, and refer patients to appropriate follow-up care. The proposed regulations do require additional effort to ensure that the policies and training include the identification, assessment, and appropriate treatment or referral of individuals who are suspected victims of human trafficking, consistent with PHL § 2805-y. However, the additional costs are expected to be minimal given the existing training infrastructure in general hospitals and D&TC's. In addition, these efforts are expected to assist individuals in obtaining treatment critical for their overall health and well-being and could help such individuals avoid future emergency room visits and hospital admissions. Therefore, the cost of implementing the proposed regulations is likely to be offset

by a reduction in care provided at no, or low, cost to victims of human trafficking.

Costs to Local Government:

This proposal will not impact local governments unless they operate a general hospital or a D&TC, in which case the impact would be the same as outlined above for private parties.

Costs to the Department of Health:

The proposed regulatory changes will not result in any additional costs to the Department.

Costs to Other State Agencies:

The proposed regulatory changes may result in additional costs to other state agencies if referrals increase and more victims access available services, but this would be consistent with the objectives of the statute. OTDA, OCFS, and DCJS have existing materials related to human trafficking available on their websites.

Local Government Mandate:

The proposed regulations do not impose any new programs, services, duties or responsibilities upon any county, city, town, village, school district, fire district or other special district, unless such local government operates a hospital or D&TC.

Paperwork:

General hospitals and D&TCs are already required to establish written policies and procedures related to various operational requirements, train staff, and refer patients. Therefore, the proposed regulations should not significantly increase their paperwork.

Duplication:

Existing regulations require hospitals to make appropriate referrals for patients to a variety of services, but do not specifically reference human trafficking victims. There otherwise are no relevant State or federal regulations which duplicate, overlap or conflict with the proposed regulations.

Alternatives:

There are no alternatives to the proposed regulations related to hospital policies and procedures, which are necessary to implement the provisions of PHL § 2805-y, added by Chapter 408 of the Laws of 2016, and SSL § 483-ff, added by Chapter 311 of the Laws of 2016.

Federal Standards:

There are currently no federal requirements for hospitals to adopt policies and procedures for the identification, assessment, treatment, and referral of human trafficking victims.

Compliance Schedule:

The regulations will be effective upon publication of a Notice of Adoption in the New York State Register.

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REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES AND LOCAL GOVERNMENTS

Effect of Rule:

The proposed regulatory provisions related to human trafficking will apply to all general hospitals and diagnostic and treatment centers (D&TCs) in New York State. This proposal will not impact local governments or small business unless they operate a general hospital or D&TC, in which case the requirements will be the same as for those entities.

Compliance Requirements:

These regulations will require general hospitals and D&TCs to develop, maintain and disseminate written policies and procedures for the identification, assessment, and appropriate treatment or referral of victims of human trafficking. These facilities will be required to train their licensed and certified clinical staff members as well as security staff members in such policies and procedures. In addition, the policies must incorporate the posting of a poster with human trafficking hotline information, available on the Office of Temporary and Disability Assistance website, in conspicuous places.

Professional Services:

While the current regulations do not specifically refer to individuals who are human trafficking victims, general hospitals and D&TCs are already required to establish written policies and procedures related to various operational requirements, train staff in such policies and procedures and refer patients to appropriate follow-up care. As such, the Department

anticipates that no additional professional services will be required for general hospitals and D&TCs to comply with this proposed regulation.

Compliance Costs:

While the current regulations do not specifically refer to individuals who are or may be victims of human trafficking, general hospitals and D&TCs are already required to have written policies and procedures related to various operational requirements, train staff in such policies and procedures and refer patients to appropriate follow-up care. The proposed regulations do require additional effort to ensure that the policies and training include the identification, assessment and referral of individuals who are suspected victims of human trafficking, consistent with the requirements of PHL § 2805-y. However, the additional costs are expected to be minimal given the existing training infrastructure in general hospitals and D&TC's. In addition, these efforts are expected to assist individuals in obtaining treatment critical for their overall health and well-being and could help such individuals avoid future emergency room visits and hospital admissions. Therefore, the cost of implementing the proposed regulations is likely to be offset by a reduction in care provided at no, or low, cost to victims of human trafficking.

Economic and Technological Feasibility:

This proposal is economically and technically feasible. Although existing regulations do not specifically refer to human trafficking victims, general hospitals and diagnostic and treatment centers are already required to establish written policies and procedures related to various operational requirements, train staff in such policies and procedures and refer patients to appropriate follow-up care.

Minimizing Adverse Impact:

The impact of this proposal is expected to be minimal as general hospitals and D&TCs are already required to have written policies and procedures related to various operational requirements, train staff in such policies and procedures and refer patients to appropriate follow-up care.

To assist hospitals and D&TCs with the development of their policies, procedures and training materials, several state agencies have provided resources that are free of charge to the public. For example:

- A course entitled "NYSDOH Human Trafficking Awareness Training," available on the Department's NYLearnsPH.com Learning Management System at [https://www.nylearnsph.com/public](https://www.nylearnsph.com/public;);
- Materials on human trafficking on the OTDA website at <https://otda.ny.gov/programs/bria/trafficking.asp>;
- Materials on human trafficking on the OCFS website at <http://ocfs.ny.gov/main/humantrafficking/default.asp>;
- Materials on human trafficking on the website of the Division of Criminal Justice Services <http://www.criminaljustice.ny.gov/pio/humantrafficking/humantrafficking.htm>

In addition, these efforts are expected to assist individuals in obtaining treatment critical for their overall health and well-being and could help such individuals avoid future emergency room visits and hospital admissions. Therefore, the cost of implementing the proposed regulations is likely to be offset by a reduction in care provided at no, or low, cost to victims of human trafficking.

Small Business and Local Government Participation:

Organizations representing health care providers and other stakeholders, including organizations whose members include general hospitals or diagnostic and treatment centers that

are operated by local governments or that constitute small businesses, were consulted on the proposed regulations.

Cure Period:

Chapter 524 of the Laws of 2011 requires agencies to include a “cure period” or other opportunity for ameliorative action to prevent the imposition of penalties on a party subject to enforcement when developing a regulation or explain in the Regulatory Flexibility Analysis why one is not included. As this proposed regulation does not create a new penalty or sanction, no cure period is necessary.

RURAL AREA FLEXIBILITY ANALYSIS

Types and Estimated Numbers of Rural Areas:

This rule applies uniformly throughout the state, including rural areas. Rural areas are defined as counties with a population less than 200,000 and counties with a population of 200,000 or greater that have towns with population densities of 150 persons or fewer per square mile. The following 43 counties have a population of less than 200,000 based upon the United States Census estimated county populations for 2010 (<http://quickfacts.census.gov>).

Approximately 17% of small health care facilities are located in rural areas.

Allegany County	Greene County	Schoharie County
Cattaraugus County	Hamilton County	Schuyler County
Cayuga County	Herkimer County	Seneca County
Chautauqua County	Jefferson County	St. Lawrence County
Chemung County	Lewis County	Steuben County
Chenango County	Livingston County	Sullivan County
Clinton County	Madison County	Tioga County
Columbia County	Montgomery County	Tompkins County
Cortland County	Ontario County	Ulster County
Delaware County	Orleans County	Warren County
Essex County	Oswego County	Washington County
Franklin County	Otsego County	Wayne County
Fulton County	Putnam County	Wyoming County
Genesee County	Rensselaer County	Yates County
	Schenectady County	

The following counties have a population of 200,000 or greater and towns with population densities of 150 persons or fewer per square mile. Data is based upon the United States Census estimated county populations for 2010.

Albany County	Monroe County	Orange County
Broome County	Niagara County	Saratoga County
Dutchess County	Oneida County	Suffolk County
Erie County	Onondaga County	

There are 47 general hospitals, approximately 90 diagnostic and treatment centers, 159 nursing homes, and 92 certified home health agencies in rural areas.

Reporting, Recordkeeping, Other Compliance Requirements and Professional Services:

The proposed regulation is applicable to those general hospitals and diagnostic and treatment centers located in rural areas and is expected to impose only minimal costs upon hospitals, which are already required to establish written policies and procedures related to various operational requirements, train staff in such policies and procedures and refer patients to appropriate follow-up care. Because the proposed regulatory requirements can be incorporated into existing processes, they are not expected to substantially increase the administrative burden on these entities.

Costs:

While the current regulations do not specifically refer to individuals who may be victims of human trafficking, general hospitals and diagnostic and treatment centers (D&TCs) are already required to have written policies and procedures related to various operational requirements, train staff in such policies and procedures and refer patients to appropriate follow-up care. The proposed regulations do require additional effort to ensure that the policies and training include the identification, assessment and referral of individuals who are suspected victims of human trafficking, as well as the provision of information related to appropriate services, consistent with the requirements of the statute. However, the additional costs are expected to be minimal given the existing training infrastructure in general hospitals and D&TC's. In addition, these efforts are expected to assist individuals in obtaining treatment

critical for their overall health and well-being and could help such individuals avoid future emergency room visits and hospital admissions. Therefore, the cost of implementing the proposed regulations is likely to be offset by a reduction in care provided at no, or low, cost to victims of human trafficking.

Minimizing Adverse Impact:

The impact of this proposal is expected to be minimal as general hospitals and D&TCs are already required to have written policies and procedures related to various operational requirements, train staff in such policies and procedures and refer patients to appropriate follow-up care.

To assist hospitals and D&TCs with the development of their policies, procedures and training materials, several state agencies have provided resources that are free of charge to the public. For example:

- A course entitled "NYSDOH Human Trafficking Awareness Training," available on the Department's NYLearnsPH.com Learning Management System at <https://www.nylearnsph.com/public>;
- Materials on human trafficking on the OTDA website at <https://otda.ny.gov/programs/bria/trafficking.asp>;
- Materials on human trafficking on the OCFS website at <http://ocfs.ny.gov/main/humantrafficking/default.asp>;
- Materials on human trafficking on the website of the Division of Criminal Justice Services <http://www.criminaljustice.ny.gov/pio/humantrafficking/humantrafficking.htm>

In addition, these efforts are expected to assist individuals in obtaining treatment critical for their overall health and well-being and could help such individuals avoid future emergency room visits and hospital admissions. Therefore, the cost of implementing the proposed regulations is likely to be offset by a reduction in care provided at no, or low, cost to victims of

human trafficking.

Rural Area Participation:

Organizations that include as members general hospitals and D&TCs located in rural areas were consulted on the proposed regulations.

STATEMENT IN LIEU OF JOB IMPACT STATEMENT

No job impact statement is required pursuant to section 201-a(2)(a) of the State Administrative Procedure Act. No adverse impact on jobs and employment opportunities is expected as a result of these proposed regulations.

ASSESSMENT OF PUBLIC COMMENT

The Department of Health (“Department”) received comments from various stakeholders during the public comment period. Those comments are summarized below along with the Department’s responses.

Comment: One commenter requested clarification on how the new requirement for diagnostic and treatment centers (D&TCs) in 10 NYCRR §751.5 will apply to freestanding chronic renal dialysis centers.

Response: Freestanding chronic renal dialysis centers are licensed as D&TCs and are thus included in the definition of “subject facility” in Public Health Law (PHL) §2805-y(1)(b). Under PHL §2805-y(2), the policies and procedures under PHL §2805-y shall apply to all subject facility service units. PHL §2805-y(1)(d) contains a nonexclusive list of service units that could be included in a subject facility. In the case of a freestanding chronic renal dialysis center that has a “dialysis unit,” 10 NYCRR §751.5 applies to the entire center regardless of whether the center considers the “dialysis unit” to be a service unit. A freestanding chronic renal dialysis center would be required to develop policies and procedures pertaining to human trafficking victims as required by this regulation. No changes were made to the regulation as a result of this comment.

Comment: The New York City Department of Health and Mental Hygiene (NYCDOHMH) requested clarification on whether the proposed rule would apply to clinics, such as Sexual Health, Tuberculosis, and Immunization clinics, operated by NYCDOHMH, and whether the

requirement to develop policies and procedures would apply, since the proposed amendment to section 751.5 does not specifically refer to the development of policies and procedures.

Response: If the NYCDOHMH clinics are licensed as D&TCs, then section 751.5 would be applicable; if the clinics are licensed as hospital extension clinics, then section 405.20 applies. In either case, NYCDOHMH clinics would be included in the definition of “subject facility” in PHL §2805-y(1)(b). Under PHL §2805-y(2), the policies and procedures under PHL §2805-y shall apply to all subject facility service units. PHL §2805-y(1)(d) contains a nonexclusive list of service units that could be included in a subject facility. In the case of a Sexual Health, Tuberculosis, or Immunization clinic, the regulations apply to the entire clinic regardless of whether the clinic is considered a “service unit.”

Under section 751.5 (Operating policies and procedures), a D&TC must develop policies and procedures which include the human trafficking policies and procedures specified in the new paragraph (8) of subdivision (a) of section 751.5.

No changes have been made to the regulation in response to these comments.

Comment: An organization that advocates to end human trafficking commented that the proposed amendments should include a requirement that training for personnel should be guided or delivered “by experts with clinical experience and expertise in serving patients impacted by human trafficking.”

Response: Under PHL §2805-y(3), “training may be incorporated as part of the subject facility’s existing training programs, provided that the training includes all of the requirements of this

section.” Under PHL §2805-y(4), the Department “may identify organizations or providers for consideration by subject facilities to provide training under this section.” The Department agrees that any training for personnel should be guided or delivered by experts with clinical experience and expertise in serving patients impacted by human trafficking. No changes have been made to the regulation in response to these comments.