RULE MAKING ACTIVITIES

Each rule making is identified by an I.D. No., which consists of 13 characters. For example, the I.D. No. AAM-01-96-00001-E indicates the following:

AAM -the abbreviation to identify the adopting agency
01 -the *State Register* issue number
96 -the year
00001 -the Department of State number, assigned upon receipt of notice.
E -Emergency Rule Making—permanent action not intended (This character could also be: A for Adoption; P for Proposed Rule Making; RP for Revised Rule Making; EP for a combined Emergency and Proposed Rule Making; EA for an Emergency Rule Making that is permanent and does not expire 90 days after filing.)

Italics contained in text denote new material. Brackets indicate material to be deleted.

State Board of Elections

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Routine Testing of Voting Systems

I.D. No. SBE-17-16-00009-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: Amendment of section 6210.2 of Title 9 NYCRR.

Statutory authority: Election Law, sections 3-102(1), 7-202(3) and 7-206(3)

Subject: Routine testing of voting systems.

Purpose: To provide for testing of voting machines not less than once per year.

Text of proposed rule: Part 6210.2 of Subtitle V of Title 9 of the Official Compilation of Codes, Rules and Regulations of the State of New York is amended to read as follows:

§ 6210.2 Routine [maintenance and] testing of voting systems

(a) Testing of all voting systems shall be conducted by the county board before the use of the system in any election and at such other times of the year as prescribed by these regulations. Testing procedures shall be approved by the State Board. The voting system shall be tested to determine that the system is functioning correctly and that all system equipment, including but not limited to hardware, memory, and report printers, are properly integrated with the system and are capable of properly performing in an election. Testing, other than pre-qualification testing, shall be conducted by casting manual votes and may include the casting of simulated votes.

(b) *All voting equipment owned by a county board of election shall be tested at least once every calendar year. All other voting equipment that has not undergone pre-election testing prior to use in any election in the calendar year shall be tested no later than December 31st of the calendar year. Such tests are in* [In] addition to vendor-prescribed maintenance tasks and diagnostic tests, [tests of voting equipment shall be] conducted by the county board [, on each piece of equipment owned by the county board. Such testing shall be administered periodically and be completed during the following periods during each year that the equipment is in use:

(1) January 15-April 15;
(2) April 16-July 15;
(3) July 16-September 15; or
(4) September 16-November 15].

Whenever a voting system is to be tested for pre-qualification purposes, such test must be conducted while the voting system is in election mode. Votes cast for pre-qualification test purposes shall be manually cast using all of the devices available to voters on election day (i.e.: audio, key pads and or pneumatic switches, and/or alternate language displays).

(c) Testing shall include the comparison of software installed on the delivered system to certified software, via the use of a Secure Hash Signature Standard (SHS) Validation Program, as described in Federal Information Processing Standards Publication 180-2 issued by the National Institute Standards Technology (This publication is available electronically by accessing [http:// csrc.nist.gov/publications/] *the NIST website*. Alternatively, copies of NIST computer security publications are available from: National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161.)

Testing shall consist of the re-calibration of equipment, as appropriate, pursuant to recommendations made in vendor's maintenance documentation, and the casting of a test deck by voting the minimum number of ballots, determined pursuant to the requirements of section 6210.8 of this Part, to ensure that all voting positions for each ballot configuration are tested. Votes cast for the purposes of this section shall be cumulative ballots cast on each piece of equipment [during each of the prescribed periods outlined].

(1) If the system does not accurately count the votes from the test deck cast manually, simulated, or both, (aside from those that were deliberately designed to fail), or the calibration test, the cause or causes for the error or errors shall be ascertained and corrected. The voting system shall be retested until there are two consecutive error-free tests before the system is approved for use in the count of actual ballots. The commissioners of the county board or their designees shall certify that they have reviewed and verified the results of said testing. The summary results of all tests, including all inaccurate test results, their causes and the actions taken to correct them, as well as the results of all errorless counts, shall be entered upon the maintenance log. *Maintenance logs are to be kept as a permanent record of the county board.* All *other* documentation and/or test decks, simulation cartridges and any test data including but not limited to copies of ballot programming used for required maintenance tests shall be maintained in secure locked storage for two years after the election, pursuant to Election Law section 3-222.

[(2) Maintenance logs are to be kept as a permanent record of the county board.]

(d) [During the period including July 16 - September 15 (and in years when a presidential primary is conducted, during the January 15 - April 15 period),] *For pre-qualification testing of a system to be used in a primary election,* the test ballot format for each piece of equipment *assigned for use in said primary election* shall consist of each primary ballot configuration as certified by the county board [, if said equipment is to be utilized in a primary election]. The voting system shall be cleared of all votes and a printed report shall be produced by the system, to verify the correct ballot configuration and election configuration, and to confirm that all voting positions are at zero. Ballots cast for the purposes of this test shall be manually cast and a printed tabulation report shall be produced. The system shall again be cleared of all votes and a printed report shall be produced by the system to confirm that all voting positions are at zero. *Each officer or board charged with the duty of preparing voting machines*

for use in any election shall give written notice pursuant to Election Law section 7-128 and section 7-207, by first class mail, to the State Board and to all candidates, except candidates for member of the county committee, who are lawfully entitled to have their names appear thereon, of the time when, and the place where, they may inspect the voting machines to be used for such election. [Each officer or board charged with the duty of preparing voting machines for use in any election shall give written notice, by first class mail, to the State Board and to all candidates, except candidates for member of the county committee, who are lawfully entitled to have their names appear thereon, of the time when, and the place where, they may inspect the voting machines to be used for such election.] The candidates or their designated representatives may appear at the time and place specified in such notice to inspect such machines, provided, however, that the time so specified shall be not less than two days prior to the date of the election.

(e) For the period between ballot certification and seven days before the general election, the test ballot format for each piece of equipment shall consist of each general election ballot configuration as certified by the county board. The voting system shall be cleared of all votes and a printed report shall be produced by the system, to verify the correct ballot configuration and election configuration, and to confirm that all voting positions are at zero. Ballots cast for the purposes of this test shall be manually cast and a printed tabulation report shall be produced. The system shall again be cleared of all votes and a printed report shall be produced by the system to confirm that all voting positions are at zero. Each officer or board charged with the duty of preparing voting machines for use in any election shall give written notice pursuant to Election Law section 7-128 and section 7-207, by first class mail, to the State Board and to all candidates, except candidates for member of the county committee, who are lawfully entitled to have their names appear thereon, of the time when, and the place where, they may inspect the voting machines to be used for such election. The candidates or their designated representatives may appear at the time and place specified in such notice to inspect such machines, provided, however, that the time so specified shall be not less than two days prior to the date of the election.

(f) In addition to any vendor provided training, the State Board shall provide training on routine maintenance and testing of voting systems to county board personnel responsible for voting systems. The State Board shall provide sample tests to be utilized by each county board. The State Board may revise said testing format, based upon its audit and review.

(g) All results of [each] *any testing* [routine maintenance, test and/or] *in addition to* pre-qualification test*ing*, including the final errorless test, shall be certified as accurate by the county board commissioners or their designees, and such certification shall be entered upon the maintenance log for each such piece of equipment, together with any other information prescribed in said log by the State Board.

(h) The county board shall certify to the State Board, the completion of *any* [each routine maintenance], *testing* [and/or] *including* pre-qualification test*ing*. All documentation and/or test decks, simulation cartridges and any test data including but not limited to copies of ballot programming used for required maintenance tests shall be maintained in secure locked storage for two years after the election, pursuant to Election Law section 3-222. Such certification shall be on a form prescribed and furnished by the State Board, and shall be accompanied by copies of each maintenance log.

(i) Each county shall keep a detailed log of maintenance performance and testing procedures. Such logs shall be in a format provided by the State Board and the same shall have been reviewed by the vendor.

(j) Such logs shall be provided *upon completion of any testing, including pre-qualification testing* [quarterly to] or as requested by the State Board, for their review and inspection, and shall be made available to the public, *upon request*.

(k) The State Board may, upon review of the maintenance logs, require further testing of any such piece of equipment or may remove a piece of equipment from use in an election until further examination and testing has been completed, or may rescind certification pursuant to section 6209.8 of the State Board regulations.

(1) The State Board may reinstate the certification if the equipment passes these further tests, and a review of the maintenance logs supports such reinstatement.

(2) County boards shall make the system or equipment available to the State Board for any such additional testing and shall provide such assistance as may be deemed necessary.

(l) During the initial time period in which such system or equipment is used, to include a primary election and a general election, the State Board shall assist in the routine maintenance, testing and the operation of the voting machines or systems. Such assistance shall include but not be limited to:

(1) election configuration and ballot configuration related to voting system testing and use;

(2) pre-qualification and post-election tests;

(3) election day support, via phone, email, facsimile or on-site, as necessary;

(4) post-election support, to include recanvass, challenges, and audit conducted pursuant to Election Law section 9-211;

(5) staff training;

(6) defining personnel requirements and tasks;

(7) defining procedures for pre-qualification, post-election, and maintenance tests; and

(8) defining procedures for canvassing and recanvassing votes cast in an election.

(m) During successive years, the State Board, whenever it deems necessary, or at the request of a county board, may assist in any or all aspects of the operation of the system.

Text of proposed rule and any required statements and analyses may be obtained from: Brian L. Quail, Esq., New York State Board of Elections, 40 North Pearl Street, Ste. 5, Albany, New York 12207, (518) 474-2063, email: brian.quail@elections.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement

1. Statutory authority: Election Law 3-102[1]; 7-202[3]; 7-206[3] requires the Boards of Elections to provide routine testing of voting systems, and this requires rules for implementation. Election Law 3-102[1]; 7-202[3]; 7-206[3] expressly authorizes the New York State Board of Elections to promulgate such rules and regulations.

2. Legislative objectives: The legislative objective furthered by the regulation is to provide an efficient, reliable voting machine testing protocol to ensure accurate tabulation of votes cast.

3. Needs and benefits: The legislature has mandated that the State Board of Elections promulgate procedures for the testing of voting equipment to ensure the accuracy of election result tabulation. This regulation requires testing of voting machines not used in an election to still occur at least once per year to ensure an accurate accounting of the condition of all voting equipment. The testing regimen continues to require pre-election testing on all units to be used in the election to ensure accurate functioning of voting machines in all elections.

4. Costs:

a. This regulatory amendment does not increase costs to regulated parties as the regulation reflects only existing statutory obligations and eliminates certain unnecessary testing.

b. There are no new agency or state costs created by this rulemaking.

c. This assessment of cost is based on the nature of the regulation.

d. This regulatory amendment does not create any new costs as it does not impose any new regulatory burden or compliance activity.

5. Local government mandates: There are no additional responsibilities imposed by this rule upon any county, city, town, village, school district, fire district or other special district.

6. Paperwork: This proposed rule imposes no new documentation, reporting or regulatory filing requirements.

7. Duplication: There is no jurisdictional duplication created by this rulemaking.

8. Alternatives: This rulemaking amends the existing regulations for voting machine testing. There are no known alternatives, but public comment will be accepted.

9. Federal standards: Not applicable.

10. Compliance schedule: The rule provides no new compliance schedules and will go into effect upon publication of the Notice of Adoption in the New York State Register.

Regulatory Flexibility Analysis

Under SAPA, when it is apparent from the nature and purpose of the rule that it will not have a substantial adverse impact on small business or local governments, the agency may file a Statement in Lieu of. This rulemaking, as is apparent from its nature and purpose, will not have an adverse impact on jobs or employment opportunities. The rule provides for a modification to the process for the testing of voting machines. This rulemaking imposes no regulatory burden on any facet of small business or local government.

Rural Area Flexibility Analysis

Under SAPA 202-bb(4)(a), when a rule does not impose an adverse economic impact on rural areas and the agency finds it would not impose reporting, recordkeeping, or other compliance requirements on public or private entities in rural areas, the agency may file a Statement in Lieu of. This rule has statewide application, amending the rules for routine testing of voting systems as provided by Election Law section 3-102[1]; 7-202[3]; 7-206[3]. The proposed rule does not create any new reporting, record-

keeping or other increased compliance requirements. Accordingly, this rule has no adverse impacts on any area.

Job Impact Statement

Under SAPA 201-a(2)(a), when it is apparent from the nature and purpose of the rule that it will not have a substantial adverse impact on jobs and employment opportunities, the agency may file a Statement in Lieu of. This rulemaking, as is apparent from its nature and purpose, will not have an adverse impact on jobs or employment opportunities. The rule provides for modifying the process for testing voting machines. This rulemaking imposes no regulatory burden on any facet of job creation or employment.

Department of Environmental Conservation

PROPOSED RULE MAKING HEARING(S) SCHEDULED

Croton Gorge Unique Area

I.D. No. ENV-17-16-00001-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: Addition of section 190.10(g) to Title 6 NYCRR.

Statutory authority: Environmental Conservation Law, sections 1-0101(3)(b), 3-0301(1)(b), (2)(m), 9-0105(1) and (3)

Subject: Croton Gorge Unique Area.

Purpose: To protect public safety and natural resources on the Croton Gorge Unique Area.

Public hearing(s) will be held at: 7:00 p.m., May 18, 2016 at Ossining Public Library, 53 Croton Ave., Ossining, NY.

Interpreter Service: Interpreter services will be made available to hearing impaired persons, at no charge, upon written request submitted within reasonable time prior to the scheduled public hearing. The written request must be addressed to the agency representative designated in the paragraph below.

Accessibility: All public hearings have been scheduled at places reasonably accessible to persons with a mobility impairment.

Text of proposed rule: A new subdivision (g) is added to 6 NYCRR section 190.10 to read as follows:

(g) Croton Gorge Unique Area. Description: For the purposes of this section, Croton Gorge Unique Area, referred to in this section as "the area", means all those state lands located in Westchester County in the Town of Cortlandt, in a portion of the Cortlandt Patent.

(1) All camping shall be prohibited.

(2) Public use of the property will be allowed from sunrise to sunset only.

(3) The use of any type of fire shall be prohibited including the use of charcoal or gas grills.

(4) Possession or consumption of alcoholic beverages shall be prohibited.

Text of proposed rule and any required statements and analyses may be obtained from: Jeff Wiegert, Division of Lands and Forests, 21 South Putt Corners Road, New Paltz, NY 12561, (845) 256-3084, email: jeffrey.wiegert@dec.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 45 days after publication of this notice.

Additional matter required by statute: A Short EAF has been prepared in compliance with Article 8 of the Environmental Conservation Law.

Regulatory Impact Statement

1. Statutory authority

Environmental Conservation Law ("ECL") section 1-0101(3)(b) directs the Department of Environmental Conservation (Department) to guarantee "that the widest range of beneficial uses of the environment is attained without risk to health or safety, unnecessary degradation or other undesirable or unintentional consequences." ECL section 3-0301(1)(b) gives the Department the responsibility to "promote and coordinate management of...land resources to assure their protection, enhancement, provision, allocation, and balanced utilization...and take into account the cumulative impact upon all such resources in promulgating any rule or regulation." ECL section 9-0105(1) authorizes the Department to ''[e]xercise care, custody, and control'' of state lands. ECL section 3-0301(2)(m) authorizes the Department to adopt rules and regulations "as may be necessary, convenient or desirable to effectuate the purposes of [the ECL]," and ECL 9-0105(3) authorizes the Department to "[m]ake necessary rules and regulations to secure proper enforcement of [ECL Article 9]."

2. Legislative objectives

In adopting various articles of the ECL, the legislature has established that forest, fish, and wildlife conservation are policies of the state and has empowered the Department to exercise care, custody, and control over certain state lands and other real property. Consistent with these statutory interests, the proposed regulations will protect natural resources and the safety and welfare of those who engage in recreational activities within the Croton Gorge Unique Area. The Department has also been authorized by the state legislature to manage state owned lands (see ECL section 9-0105(1)), and to promulgate rules and regulations for the use of such lands (see ECL sections 3-0301(2)(m) and 9-0105(3)).

3. Needs and benefits

The Croton Gorge Unique Area ("the Area") is located in the town of Cortlandt in Westchester County and was acquired in 1978 by the state because of its natural beauty. As early as 1965, Westchester County identified this stretch of the Croton River for public acquisition in its open space program. In 1974, discussions involving the Department, Westchester County officials, the Nature Conservancy, and various local and regional conservationists culminated in the formal submission of a nomination of a portion of the Croton Gorge for acquisition by the Department with Environmental Quality Bond Act funds under the unique category for inclusion in the State Nature and Historical Preserve. In 1976, the Board of the State Nature and Historical Preserve Trust advised the commissioner of the Department of Environmental Conservation that "the Croton River and Gorge from the New Croton Dam to the River's confluence with the Hudson qualifies as a "Unique Area" in the natural beauty category; that the Board recommend that the commissioner explore and report on means of protecting the entire Gorge either by State, County, private or municipal acquisition or other method of protection; and that as a first step the commissioner acquire by easement or fee title up to 40 acres in the section designated… ." Original parcels identified for acquisition included lands owned by (a) the Village of Croton-on-Hudson, (b) the Union Free School District #2, (c) Towns of Cortlandt and Yorktown, and (d) three private landowners. An internal memo described the acquisition as "one of the grandest hemlock gorges in the State, and the finest immediately adjacent to the Tidal Hudson. Despite the propinquity to New York City, the tract is largely undisturbed." The same memo proposed that an emergency action was required "in order to secure a crucial portion from adverse development."

In 1978, the Department acquired 19.2 acres in three separate parcels east of the Croton River in the Town of Cortlandt, from two willing private sellers. The 19.2 acre acquisition by the Department became the Croton Gorge Unique Area. Part 190 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York ("6 NYCRR") contain the general regulations concerning the public's use of state lands, but it does not adequately address the majority of management issues confronting this property including overuse, alcohol consumption, campfires, and camping.

Due to the large influx of public users to this small property in the summer months, there is degradation to the natural resources of the Area and an increase in public safety issues. These include the trampling of vegetation resulting in areas of compacted soil and bare ground, damage to trees resulting from limb removal for fire use, littering, and graffiti. In addition, trespassing onto neighboring private properties is an issue. In the case of wildfire, efforts to contain a blaze by local first responders would be hampered with the lack of fire hydrants near the property and the rugged terrain.

The proposed regulations will improve public safety by prohibiting the consumption of alcohol and the use of fire on the property. By prohibiting camping and restricting hours of use, it is anticipated that litter, trespass and other degradation problems will be reduced or eliminated. In contrast to other similar regulations, the proposed regulations specify the start and end of hours of public use as sunrise and sunset, rather than times of day. This language will help to ensure that users leave the area while there is still sufficient daylight to safely navigate the steep trail that is the only means of ingress and egress from the property.

Local government is very supportive of this regulatory proposal and are expected to assist the Department with enforcement. Local law enforcement and public safety officials are the first responders to incidents on this property. A Task Force composed of local municipal leaders, neighbors, law enforcement and public safety officials has been formed to address management issues on the Croton Gorge Unique Area. The Task Force has requested that the Department promulgate regulations to increase public safety and address overuse while still providing a quality outdoor

recreational experience for users of the property. It has been pointed out that Department lands are the only publicly managed lands along the Croton River that allow alcohol consumption, campfires and camping. Consistency in permitted uses on publicly managed lands along the Croton River is desired. The uniqueness of the area and its uses require some additional restrictions on Department lands. For these and other reasons the Department seeks to promulgate regulations for the Croton Gorge Unique Area. The Department has concluded that it is reasonable and appropriate to develop regulations to regulate the activities at the Croton Gorge Unique Area in order to protect the Area's natural resources given its unique character and level of public use.

Department staff attended a Task Force meeting on October 2, 2014 to listen to concerns and issues with public use of the Croton Gorge Unique Area. This is a continuation of meetings the Department has attended since 2006. Attendees at this meeting included Town Supervisors from Cortlandt and Ossining, the Mayor of Croton-on-Hudson, the Director of Environmental Services for the Town of Cortlandt, police and emergency personnel from Westchester County and the above municipalities, interested members of the public, users of the property and neighbors. At that meeting Department staff agreed to a field visit to the property which occurred on November 8, 2014. A handful of people showed up including the Director of Environmental Services for the Town of Cortlandt and a couple of neighbors. The content of the proposed Unique Area regulations was discussed.

Information regarding the Department's intent to propose a regulation, the content of the regulation and the public process associated with the rulemaking will appear in a widely- distributed Spanish-language newspaper in the area. In addition, a public meeting in the local community will be held during the formal regulatory comment period. All regulatory documents will appear on the Department's website.

4. Costs

There will be no increased staffing, construction or compliance costs projected for state or local governments or to private regulated parties as a result of this rulemaking. Costs to local governments and Department enforcement personnel will not increase as a result of increased patrols since patrol levels will remain the same. Costs to the Department will be minimal and are estimated to be approximately $500.00 for necessary signage for the property explaining the new regulations.

5. Local government mandates

This proposal will not impose any program, service, duty or responsibility upon any county, city, town, village, school district or fire district.

6. Paperwork

The proposed regulations will not impose any reporting requirements or other paperwork on any private or public entity.

7. Duplication

There is no duplication, conflict, or overlap with state or federal regulations.

8. Alternatives

The no-action alternative is not feasible since it does not adequately protect the Croton Gorge Unique Area from overuse and abuse. Reliance on current Part 190 regulations for State Forest lands does not provide adequate public safety or law enforcement protections that are necessary for the protection of the Croton Gorge Unique Area because of its unique characteristics and geographic location.

9. Federal standard

There is no relevant federal standard governing the use of state lands.

10. Compliance schedule

The regulations will become effective on the date of publication of the rulemaking in the New York State Register. Once the regulations are adopted they are effective immediately. The Department will educate the public about the regulations through information posted on the Departments' web site, signage posted on the property, and by working with the Task Force to help disseminate information regarding the regulations.

Regulatory Flexibility Analysis

The proposed rulemaking will adopt a new subdivision (g) to 6 NYCRR Section 190.10, "Unique Areas" that will address overuse and increase public safety on the Croton Gorge Unique Area while still providing a quality outdoor experience for users. A Regulatory Flexibility Analysis for Small Businesses and Local Governments is not submitted with these regulations because the proposal will not impose any reporting, record-keeping or other compliance requirements on small businesses or local governments. Since there are no identified cost impacts for compliance with the proposed regulations on the part of small businesses and local governments, they will bear no economic impact as a result of this proposal. The proposed regulations relate solely to protecting public safety and natural resources on the Croton Gorge Unique Area.

Rural Area Flexibility Analysis

The proposed rulemaking will adopt a new subdivision (g) to 6 NYCRR Section 190.10, "Unique Areas" that will address overuse and increase public safety on the Croton Gorge Unique Area while still providing a quality outdoor experience for users. A Rural Area Flexibility Analysis is not submitted with this proposal because the proposal will not impose any reporting, record-keeping or other compliance requirements on rural areas. The proposed regulations relate solely to protecting public safety and natural resources on the Croton Gorge Unique Area.

Job Impact Statement

The proposed rulemaking will adopt a new subdivision (g) to 6 NYCRR Section 190.10, "Unique Areas" that will address overuse and increase public safety on the Croton Gorge Unique Area while still providing a quality outdoor experience for users. A Job Impact Statement is not submitted with this proposal because the proposal will have no substantial adverse impact on existing or future jobs and employment opportunities. The proposed regulations relate solely to protecting public safety and natural resources on the Croton Gorge Unique Area.

Department of Financial Services

PROPOSED RULE MAKING HEARING(S) SCHEDULED

Plan of Conversion by Commercial Travelers Mutual Insurance Company

I.D. No. DFS-17-16-00003-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: Approval of a plan by Commercial Travelers Mutual Insurance Company to convert from a mutual accident and health insurance company to a stock accident and health insurance company.

Statutory authority: Insurance Law, section 7313

Subject: Plan of Conversion by Commercial Travelers Mutual Insurance Company.

Purpose: To convert a mutual accident and health insurance company to a stock accident and health insurance company.

Public hearing(s) will be held at: 10:30 a.m., May 26, 2016 at Department of Financial Services, One State Street, 6th Fl., New York, NY.

Interpreter Service: Interpreter services will be made available to hearing impaired persons, at no charge, upon written request submitted within reasonable time prior to the scheduled public hearing. The written request must be addressed to the agency representative designated in the paragraph below.

Accessibility: All public hearings have been scheduled at places reasonably accessible to persons with a mobility impairment.

Substance of proposed rule: Commercial Travelers Mutual Insurance Company has submitted a plan pursuant to N.Y. Insurance Law Section 7313 to convert from a mutual accident and health insurance company to a stock accident and health insurance company.

Text of proposed rule and any required statements and analyses may be obtained from: Christine Gralton, NYS Department of Financial Services, 1 State Street, New York, NY 10004, (212) 480-5061, email: christine.gralton@dfs.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: Five days after the last scheduled public hearing.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

Department of Health

NOTICE OF ADOPTION

Transgender Related Care and Services

I.D. No. HLT-44-15-00003-A
Filing No. 370
Filing Date: 2016-04-12
Effective Date: 2016-04-27

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of section 505.2(l) of Title 18 NYCRR.

Statutory authority: Public Health Law, sections 201 and 206; Social Services Law, sections 363-a and 365-a(2)

Subject: Transgender Related Care and Services.

Purpose: To amend provisions regarding Medicaid coverage of transition-related transgender care and services.

Text or summary was published in the November 4, 2015 issue of the Register, I.D. No. HLT-44-15-00003-P.

Final rule as compared with last published rule: No changes.

Text of rule and any required statements and analyses may be obtained from: Katherine Ceroalo, DOH, Bureau of House Counsel, Reg. Affairs Unit, Room 2438, ESP Tower Building, Albany, NY 12237, (518) 473-7488, email: regsqna@health.ny.gov

Assessment of Public Comment

Separate letters with comments were received from nine individuals, one advocacy organization, and one professional association. In addition, two legal aid organizations and a law firm provided joint comments.

The proposed regulations would establish a minimum age of 18 for Medicaid coverage of gender reassignment surgery (GRS), even in instances where sterilization will result, and would add psychiatric nurse practitioners to the list of medical professionals who can provide referral letters establishing the appropriateness of GRS for a particular individual. All commenters approved of these proposed changes.

However, all of the commenters urged that the list of individuals who can provide referral letters for GRS be further expanded. Suggestions included general nurse practitioners, licensed clinical social workers, licensed masters of social work under clinical supervision, mental health counselors, and individuals with a master's degree or its equivalent in a clinical behavioral science field. Some commenters suggested that under the current regulation, Medicaid recipients in some areas of the State would have difficulty finding qualified clinicians nearby to provide the required letters, and would have to travel to places where there are more qualified clinicians. In response, the Department notes Medicaid payment is available for transportation to and from the offices of qualified clinicians in order to obtain medically necessary services, and is available for certain medically necessary telemedicine consultations. In addition, the regulation is intended to strike a balance between enabling access to services and ensuring that Medicaid coverage of GRS is based on determinations of medical necessity made by individuals qualified to make such determinations. The Department will take the commenters' suggestions under advisement, but continues to believe the current requirement is reasonable and is not a barrier to transgender individuals accessing necessary care. No changes were made to the proposed regulation as a result of these comments.

All of the commenters offered comments on provisions of 18 NYCRR 505.2(l) not affected by the proposed regulatory amendment. For example, commenters objected to existing provisions restricting coverage of transgender care and services to individuals 18 years of age or older, and prohibiting coverage for services provided for the sole purpose of improving an individual's appearance. Because these comments do not pertain to the amendments proposed in the current rulemaking, the Department will not address them, and no changes were made to the proposed regulation in response to these comments. The Department notes, however, that these objections were raised when it adopted the new section 505.2(l) in 2015, and were addressed in the Assessment of Public Comment accompanying that adoption.

Lake George Park Commission

NOTICE OF ADOPTION

Mandatory Inspection of Trailered Vessels for Aquatic Invasive Species Prior to Launching into the Waters of Lake George Park

I.D. No. LGP-06-16-00006-A
Filing No. 368
Filing Date: 2016-04-12
Effective Date: 2016-05-01

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of Subpart 646-9 of Title 6 NYCRR.

Statutory authority: Environmental Conservation Law, sections 43-0117(4), 43-0107(8) and (32)

Subject: Mandatory inspection of trailered vessels for aquatic invasive species prior to launching into the waters of Lake George Park.

Purpose: To minimize the introduction and spread of aquatic invasive species into the waters of the Lake George Park.

Text or summary was published in the February 10, 2016 issue of the Register, I.D. No. LGP-06-16-00006-P.

Final rule as compared with last published rule: No changes.

Text of rule and any required statements and analyses may be obtained from: Dave Wick, Executive Director, Lake George Park Commission, 75 Fort George Road, P.O. Box 749, Lake George, NY 12845, (518) 668-9347, email: dave@lgpc.state.ny.us

Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2019, which is no later than the 3rd year after the year in which this rule is being adopted.

Assessment of Public Comment

1. Introduction

The Lake George Park Commission held a public hearing on the proposed Aquatic Invasive Species Prevention Regulations. The Public Hearing was held on March 30 at 4:00 p.m. at the Bolton Town Hall, Bolton Landing, NY. The hearing was attended by Kenneth Parker, James Kneeshaw, William Mason, and Joseph Stanek.

Comment #1:

Mark Miller and John Salvador, Jr. asked about the cost to include Trout Lake into the program. Mr. Miller spoke about the on-going Trout Lake survey work as well as Trout Lake boat registrations.

Mr. Miller also questioned the language of the proposed launch agreements and wondered whether the seals for Trout Lake boats would be different than those for Lake George boats.

Response: The cost of including Trout Lake is very minimal. The only cost incurred is the cost of tags, administration costs for processing launch agreements and compliance. Commission staff estimated the cost of tags to be approximately $200-$300. The Commission will work with launch owners to find the most efficient manner to secure their launches. The Commission intends to use a different color seal for Trout Lake boats to distinguish them from boats entering Lake George.

Comment #2:

Mayor Robert Blais said that he and all the members of the SAVE group are in favor of the program and are willing to commit to three (3) years of funding – which is the law's limit. He said it is now up to the State.

Mayor Blais also noted that the users of the lake are in favor of protecting this most valuable resource with a 96% approval rating. Its proven prevention and is much more cost effective than eradicating something that gets into the lake.

Mayor Blais said that he would like to see the program extended based on the weather patterns, etc. If that happens, they are also ready to fund that as well.

Response: These comments were noted by the Commission and the Commission extended its great appreciation to Village of Lake George and the other municipalities and nonprofit organizations around Lake George in working to protect Lake George from new aquatic invasive species.

Comment #3:

David Hartmann thanked the Commission for the presentation. He questioned whether there were specific goals of the program and how the Commission would measure success against those goals. He also ques-

tioned the negative impacts that the regulations may present such as the limited access to the lake due to closure of launches. He questioned whether the Commission would monitor the program for costs and determine whether the costs of the program would be better spent on an alternative program such as the voluntary steward program the preceded these regulations.

Response: The specific goal of the regulations is to minimize the introduction of aquatic invasive species into the waters of the Lake George Park. The Commission measures the immediate success of the program by maintaining records of the inspection and, if necessary, the decontamination of boats entering Lake George. During the pilot program, the Commission documented more than 300 boats with known invasive species which were decontaminated prior to launching into Lake George.

The Commission has considered alternatives to these regulations which are documented in the Regulatory Impact Statement. These include an enhanced steward program, a voluntary certification program, and taking no action. The Commission determined that the mandatory boat inspection and decontamination program was the most effective and efficient way to prevent the introduction of aquatic invasive species into Lake George. The Commission has streamlined the program to save costs and will continue to monitor the program to keep it efficient and effective.

The public launches at Roger's Rock, Mossy Point and Million Dollar Beach are owned by the Department of Environmental Conservation. Mossy Point and Million Dollar Beach are opened year round at all hours. The Commission operates a drop box system during off-hours allowing boaters to remove their own Vessel Inspection Seal and drop it in the box to show compliance. During the two year pilot program, the Commission did not receive any complaints about access. The Commission's records indicate that very few boats were launched during off-hours when no inspection station was open. In addition, the Commission works with fishing groups to provide extended inspection station hours during large events.

Comment #4:

Walt Lender, Executive Director of the Lake George Association, said that the LGA is very supportive of this program. He said that he would be happy to work with the Commission on the questions and the outreach.

Mr. Lender said that he has received only positive feedback from people regarding the program and congratulated the Commission.

Response: These comments were noted by the Commission and the Commission extended its great appreciation to the LGA in working to protect Lake George from new aquatic invasive species.

Comment #5:

Pamela Parrott, a 4th generation Lake George resident, said that she is in support of the program and believes that the program is absolutely necessary.

Response: These comments were noted by the Commission and the Commission appreciates the support of the public in working to protect Lake George from new aquatic invasive species.

Comment #6:

Mr. Conover, Bolton Town Supervisor, said that the Commission has his full support for the program.

Response: These comments were noted by the Commission and the Commission appreciates the support of the Town of Bolton and other municipalities around Lake George in working to protect Lake George from new aquatic invasive species.

Comment #7:

The Commission received one written comment from Meg Modley, Environmental analyst with the Lake Champlain Basin Program. Ms. Modley suggested that the Commission decontaminate boats leaving Lake George to prevent the spread of AIS from Lake George into other water bodies. Ms. Modley further suggests that samples of AIS removed from boats prior to entering Lake George be analyzed to identify the AIS from other waterbodies. She further suggests collecting and analyzing AIS specimens from boats that leave Lake George to determine what risks there may be to other water bodies.

Response: The Commission is currently working with Darren Freshwater Institute to evaluate the costs and effectiveness of analyzing water samples from boats that are decontaminated prior to entering Lake George. The Commission determined that requiring boats leaving Lake George to undergo decontamination would cause a significant cost to the program and may cause unnecessary inconvenience to the boaters. Boats leaving Lake George are required to have their bilges drained and be inspected for visible AIS (cleaned and drained) prior to tagging with a seal upon exiting the lake, so as not to allow the boat to introduce any possible AIS from Lake George into other waterbodies.

State Liquor Authority

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Updated Price Posting Rules, License Durations, and Recordkeeping Requirements, and Rescinding of Whiskey Dividend Rules

I.D. No. LQR-17-16-00002-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: This is a consensus rule making to amend sections 65.4, 65.5, 65.11 and 97.1; and repeal of sections 90.1 and 90.2 of Title 9 NYCRR.

Statutory authority: Alcohol Beverage Control Law, sections 55-a(1), 101(1)(c), 101-b(4) and 109(1)

Subject: Updated price posting rules, license durations, and recordkeeping requirements, and rescinding of whiskey dividend rules.

Purpose: To update price posting rules, license durations, recordkeeping, and joint advertising rules for certain license types.

Text of proposed rule: Title 9, Subtitle B, of the Official Compilation of Codes, Rules and Regulations of the State of New York (NYCRR), is hereby amended to include amendments to sections 65.4, 65.5, 65.11, and 97.1, as well as the repeal of sections 90.1 and 90.2.

§ 65.4 Prices to retailers (Alcoholic Beverage Control Law, § 101-b)

(a) The price to retailers, except retailers operating railroad cars, shall include federal customs duties, internal revenue taxes, State taxes and fees and cost of delivery to the retailer. The price to retailers operating railroad cars may be scheduled at a price "ex State taxes and fees", but shall include all of the other taxes and costs computed in prices to other retailers. No charge shall be made in addition thereto, except where a wholesaler lists in his schedule those counties in which no charge for delivery will be made, in all other counties the actual cost of delivery shall be charged to the retailer in addition to the price set forth in the schedule and shall be so indicated on the invoice.

(b) A delivery charge may be made for certain brands and not for other brands, provided it is so indicated on the schedule of prices to retailers.

(c) All sales to airline company retail licensees shall be at price schedule prices, except "in bond" sales to aircraft companies holding permits under section 99-b.

(d) The bottle or case price of an item of liquor listed in a schedule of liquor prices to retailers shall not be changed from the price theretofore listed in the prior schedule of liquor prices to retailers except insofar as such change may be required or permitted pursuant to the provisions of 3(b) of section 101-b (Alcoholic Beverage Control Law), or after prior permission of the Authority for good cause shown and for reasons not inconsistent with the purpose of section 101-b.

(e) For each item of liquor listed in the schedule of liquor prices to retailers there shall be posted a bottle and a case price. [The bottle price multiplied by number of containers in the case must exceed the case price by approximately $1.92 for any case of 48 or fewer containers. The figure is to be reached by adding $1.92 to the case price, dividing by the number of containers in the case, and rounding to the nearest cent. Where more than 48 containers are packed in a case, bottle price shall be computed by dividing the case price by the number of containers in the case, rounding to the nearest cent, and adding one cent. Variations will not be permitted without approval of the authority.]

§ 65.5 Prices to wholesalers

(a) The prices of liquor to wholesalers must be scheduled by the following methods for designated points of shipment. If the brand owner or brand agent ships from more than one point-of-shipment to any wholesaler anywhere in any State of the United States or in the District of Columbia, or to any state (or state agency) then the points-of-shipment most economical to the New York wholesaler must be scheduled.

(1) F.O.B. United States of America point-of-shipment designated which shall include Federal customs duties, internal revenue taxes, New York State excise taxes and all charges up to the point-of-shipment designated.

(2) F.O.B. United States of America point-of-shipment designated which shall include all Federal customs duties, internal revenue taxes and all charges up to the point-of-shipment designated if sales to any wholesaler in any other state, or to any state (or state agency) are made on this basis.

(3) In bond f.o.b. United States of America point-of-shipment designated if sales to any wholesaler in any other state, or to any state (or state agency) are made on this basis.

(4) In bond f.o.b. foreign point-of-shipment designated (direct import) if sales to any wholesaler in any other state, or to any state (or state agency) are made on this basis.

(5) F.O.B. foreign point-of-shipment designated which shall include all Federal customs duties, internal revenue taxes and all charges up to the point-of-shipment designated if sales to any wholesaler in any other State, or to any state (or state agency) are made on this basis.

[(b) Liquor prices to wholesalers may not be scheduled by any other method unless it is first established to the satisfaction of the Authority that the bottle and case prices under the alternate method are not higher than the lowest prices at which the brand will be sold to any wholesaler anywhere in any other state of the United States or in the District of Columbia, or to any state (or state agency).

(c)] *(b)* Where any schedule of liquor prices to wholesalers reflects a reduction or increase in the bottle or case price filed pursuant to subdivision (a)(1) of this section for any item set forth therein from the bottle or case price of such item theretofore in effect, then the schedules of liquor prices to retailers shall reflect, in the event of a decrease at least a like reduction in per centum in the bottle and case price of such item set forth therein, and in the event of an increase, not more than a like increase in per centum in the bottle and case price of such item set forth therein.

[(d)] *(c)* The prices of wine to wholesalers may be scheduled by the following methods:

(1) F.O.B. United States of America point-of-shipment designated which shall include all Federal customs duties, internal revenue taxes, New York State excise taxes and all charges up to the point-of-shipment designated.

(2) F.O.B. United States of America point-of-shipment designated which shall include all federal customs duties, internal revenue taxes and all charges up to the point-of-shipment designated.

(3) In bond f.o.b. United States of America point-of-shipment designated.

(4) In bond f.o.b. foreign point-of-shipment designated (direct import).

(5) F.O.B. foreign point-of-shipment which shall include all federal customs duties, internal revenue taxes and all charges up to the point-of-shipment designated.

(6) A price which shall include federal customs duties, internal revenue taxes, State excise taxes and cost of delivery to the wholesaler. No charge shall be made in addition thereto except where the manufacturer or wholesaler lists in his schedule of wine prices to wholesalers the counties in which no charge for delivery will be made, in which event the actual cost of delivery in all other counties shall be charged to the wholesalers in addition to the price set forth on the schedule.

(7) A price which shall conform to the same terms and conditions set forth in method number (6) above except exclusive of federal customs duties, internal revenue taxes and State excise taxes.

(8) A price which shall conform to the same terms and conditions set forth in method number (6) above except exclusive of State excise taxes.

[(e)] *(d)* Wine prices to wholesalers may not be scheduled by any other method except with the approval of the Authority first obtained.

§ 65.11 Breakage

(a) As part of its regular books and records, each manufacturer and wholesaler licensed to sell liquor or wine shall keep a monthly record of all allowances for breakage containing the name, address and license number of the customer, the amount of breakage allowance, the date and number of the invoice of sale[, and the Federal strip stamp numbers of each broken bottle for which allowance is given].

(b) No allowances for breakage shall be given unless the broken bottle is returned to the seller [and where the container is required to have a Federal strip stamp affixed thereto, such stamp must be intact at the time of return]. Such broken bottles shall be kept available for inspection by representatives of the Liquor Authority, and may not be removed from the licensed premises or destroyed without permission from the Liquor Authority *for a period of at least thirty (30) days*.

§ 97.1 (Duration of permits)

The duration of the following retail beer licenses, effective on and after July 1, 1976, shall be as follows:

(a) Single grocery store beer licenses located in the following counties shall be effective for one year commencing July 1, 1976 and shall expire on June 30, 1977. Thereafter, the term of such licenses shall be three years commencing July 1, 1977 and ending June 30, 1980, and every three years thereafter.

ZONE I	ZONE II	ZONE III
New York	Albany	Alleghany
Kings	Greene	Cattaraugus
	Chenango	Chautauqua
	Delaware	Chemung
	Otsego	Schuyler
	Schoharie	Steuben
	Clinton	Tompkins
	Essex	Tioga
	Franklin	Ontario
	Columbia	Seneca
	Renessalaer	Yates
	Washington	
	Broome	
	Cayuga	

(b) Single grocery store beer licenses located in the following counties shall be effective for two years commencing July 1, 1976 and shall expire on June 30, 1978. Thereafter, the term of such licenses shall be three years commencing July 1, 1978 and ending June 30, 1981, and every three years thereafter.

ZONE I	ZONE II	ZONE III
Bronx	Cortland	Erie
Queens	Onondaga	Wyoming
Richmond	Dutchess	
Fulton		
Hamilton		
Montgomery		
Herkimer		
Madison		
Oneida		
Jefferson		
Lewis		
Oswego		

(c) Single grocery store beer licenses located in the following counties shall have a duration of three years, the first such period to commence July 1, 1976 and end on June 30, 1979.

ZONE I	ZONE II	ZONE III
Nassau	St. Lawrence	Genesee
Suffolk	Saratoga	Niagara
Westchester	Schenectady	Orleans
Orange	Warren	Livingston
Putnam	Sullivan	Monroe
Rockland	Ulster	Wayne

(d) All multiple grocery store beer licenses throughout the State shall have a duration of three years, the first such period to commence July 1, 1976 and end on June 30, 1979.

(e) All single and multiple drug store beer licenses throughout the State shall have a duration of three years, the first such period to commence July 1, 1976 and end on June 30, 1979.

(f) The following retail beer licenses, authorized by sections 53-a and 55 of the Alcoholic Beverage Control Law, shall continue to have a duration of one year commencing July 1 and ending June 30:

Eating place	Club
Vendor	Additional bar
Vessel	Fishing vessel
Hotel	

(g) [and] *All* ball park retail beer licenses, authorized by section 55-a of the Alcoholic Beverage Control Law, shall [continue to] have a duration of [one] *three* years [commencing April 1 and ending March 31].

Text of proposed rule and any required statements and analyses may be obtained from: Paul Karamanol, Senior Attorney, State Liquor Authority, 80 South Swan Street, Suite 900, Albany, NY 12210, (518) 474-3114, email: paul.karamanol@sla.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 45 days after publication of this notice.

Consensus Rule Making Determination

This statement is being submitted pursuant to subparagraph (i) of paragraph (b) of subdivision (1) of section 202 of the State Administrative

Procedure Act and in support of the New York State Liquor Authority's ("Authority") Notice of Proposed Rulemaking seeking to amend sections 65.4, 65.5, 65.11, and 97.1, as well as the repeal of sections 90.1 and 90.2 of Title 9, Subtitle B, of the Official Compilation of Codes, Rules and Regulations of the State of New York (N.Y.C.R.R.)

It is apparent from the nature and purpose of these proposed amendments that no person is likely to object to their adoption as written. Part 65.4 sets forth requirements for posting prices of liquor and wine to retailers and the proposed change would rescind the archaic requirement that case prices exceed the bottle price multiplied by the number of bottles in a case by $1.92, thereby codifying current practices. Part 65.5 sets requirements for posting prices of liquor and wine to wholesalers and the proposed change would rescind the archaic requirement that wholesalers establish to the satisfaction of the Authority that their bottle and case prices are not higher than the lowest prices at which the brand will be sold to any wholesaler anywhere in any other state of the United States or in the District of Columbia, thereby codifying current practices. Part 65.11 sets forth recordkeeping requirements for broken alcoholic beverage containers in the chain of distribution ("breakage") and the proposed change would rescind archaic references to Federal strip stamps which are no longer utilized. Part 97.1 sets forth durations for several retail beer licenses and the proposed change would lengthen the duration for ball park beer licenses from one to three years, thereby codifying current practices. Part 90.1 sets forth a ban on issuing permits for trafficking of alcoholic beverage dividends and would be rescinded as an outdated practice which is no longer relevant. Part 90.2 sets forth requirements that alcoholic beverage dividends be shipped via a manufacturer or wholesaler licensed in New York and would be rescinded as an outdated practice which is no longer relevant.

Consistent with the definition of "consensus rule" as set forth in section 102(11) of the State Administrative Procedure Act, the Authority has determined that this proposal, which rescinds certain archaic price posting requirements, outdated recordkeeping references, and codifies current practices regarding length of ball park licenses, and rescinds archaic rules regarding whiskey dividends, is non-controversial in nature and, therefore, no person is likely to object to its adoption as written.

Job Impact Statement

This statement is being submitted pursuant to subdivision (2) of section 201-a of the State Administrative Procedure Act and in support of the New York State Liquor Authority's ("Authority") Notice of Proposed Rulemaking seeking to amend sections 65.4, 65.5, 65.11, and 97.1, as well as the repeal of sections 90.1 and 90.2 of Title 9, Subtitle B, of the Official Compilation of Codes, Rules and Regulations of the State of New York (N.Y.C.R.R.).

It is apparent from the nature and purpose of these proposed amendments that they have no impact on jobs or employment opportunities in New York. These proposed amendments merely rescind certain archaic price posting requirements, outdated recordkeeping references, codify current practices regarding length of ball park licenses, and rescind archaic rules regarding whiskey dividends. As a result, the Authority has determined that these proposed amendments will have no substantial adverse impact on any private or public sector jobs or employment opportunities and a full Job Impact Statement is not warranted.

Office of Mental Health

NOTICE OF WITHDRAWAL

Telepsychiatry Services

I.D. No. OMH-15-16-00001-W

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Notice of proposed rule making, I.D. No. OMH-15-16-00001-P, has been withdrawn from consideration. The notice of proposed rule making was published in the *State Register* on April 13, 2016.

Subject: Telepsychiatry Services.

Reason(s) for withdrawal of the proposed rule: Minor modification of text.

NOTICE OF ADOPTION

Rights of Patients

I.D. No. OMH-08-16-00003-A
Filing No. 369
Filing Date: 2016-04-12
Effective Date: 2016-04-27

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of section 527.8 of Title 14 NYCRR.

Statutory authority: Mental Hygiene Law, sections 7.07 and 7.09

Subject: Rights of Patients.

Purpose: Make clear that conversion therapy is not a permissible form of treatment for minors in facilities under OMH's jurisdiction.

Text or summary was published in the February 24, 2016 issue of the Register, I.D. No. OMH-08-16-00003-P.

Final rule as compared with last published rule: No changes.

Text of rule and any required statements and analyses may be obtained from: Kim Breen, NYS Office of Mental Health, 44 Holland Avenue, Albany, NY 12229, (518) 474-1331, email: regs@omh.ny.gov

Initial Review of Rule

As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2021, which is no later than the 5th year after the year in which this rule is being adopted.

Assessment of Public Comment

OMH received two letters of comment from the public in response to the Notice of Proposed Rule Making that is being promulgated to make clear that conversion therapy is not a permissible form of treatment for minors in facilities under OMH's jurisdiction.

Comments and responses are as follows:

Comment: Commenter supplied letter in support of proposed regulation. Commenter also supports legislative action to prohibit physicians and mental health professionals from offering or providing services to change the sexual orientation of a minor. Commenter believes conversion therapy should be considered professional misconduct for physicians under New York Education Law Section 6530 and similar provisions should be enacted for other mental health professionals.

Response: OMH appreciates the letter in support of the proposal.

Comment: Commenter urges withdrawal of the proposed regulation because commenter believes that the evidence does not sufficiently support the conclusion that conversion therapy harms minors.

Response: OMH does not agree with the commenter. OMH believes the justification provided in the Regulatory Impact Statement sufficiently supports the need for the rule. The rule will not be withdrawn.

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Telepsychiatry Services

I.D. No. OMH-17-16-00010-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: Addition of Part 596; and repeal of section 599.17 of Title 14 NYCRR.

Statutory authority: Mental Hygiene Law, sections 7.09 and 31.04

Subject: Telepsychiatry Services.

Purpose: Establish basic standards to approve telepsychiatry in certain OMH-licensed programs; repeal unnecessary existing provisions.

Text of proposed rule: Section 599.17 of Title 14 NYCRR is repealed.

A new Part 596 is added to Title 14 NYCRR to read as follows:

Part 596

TELEPSYCHIATRY SERVICES

§ 596.1 Background and intent.

(a) Telepsychiatry is defined as the use of two-way real-time interactive audio and video equipment to provide and support mental health services at a distance. Such services do not include a telephone conversation, electronic mail message or facsimile transmission between a clinic and a recipient, or a consultation between two professional or clinical staff.

(b) Telepsychiatry can be beneficial to a mental health care delivery

system, particularly when on-site services are not available or would be delayed because of distance, location, time of day, or availability of resources. The benefits of telespsychiatry can include improved access to care, provision of care locally in a more timely fashion, improved continuity of care, improved treatment compliance, and coordination of care.

(c) The Office of Mental Health supports the use of telepsychiatry as an appropriate component of the mental health delivery system to the extent that it is in the best interests of the person served and is performed in compliance with applicable federal and state laws and regulations and the provisions of this Part in order to address legitimate concerns about privacy, security, patient safety, and interoperability.

§ 596.2 Legal base.

(a) Section 7.09 of the Mental Hygiene Law grants the Commissioner of Mental Health the power and responsibility to adopt regulations that are necessary and proper to implement matters under his or her jurisdiction.

(b) Sections 31.02 and 31.04 of the Mental Hygiene Law authorize the Commissioner of Mental Health to set standards of quality and adequacy of facilities, equipment, personnel, services, records and programs for the rendition of services for persons diagnosed with mental illness, pursuant to an operating certificate.

§ 596.3 Applicability.

(a) The provisions of this Part shall apply to any provider licensed pursuant to Article 31 of the Mental Hygiene Law who has been authorized by the Office under this Part to include the use of telepsychiatry as a means of rendering licensed services, provided, however, that telepsychiatry shall not be utilized in Personalized Recovery Oriented Services (PROS) programs subject to Part 512 of this Title or Assertive Community Treatment (ACT) programs approved pursuant to Part 551 of this Title.

(b) The provisions of this Part do not apply to telehealth services subject to regulations of the Department of Health at 18 NYCRR Section 505.38, provided, however, nothing in this Part shall be deemed to restrict the ability of providers under the jurisdiction of the Office from contracting for telehealth services delivered in accordance with such regulations.

§ 596.4 Definitions. For purposes of this Part:

(a) Distant or "hub" site means the distant location at which the practitioner rendering the telepsychiatry service is located.

(b) Encounter means a telepsychiatry event involving patient contact, whereby the care of the patient is the direct responsibility of both the originating (spoke site) provider and the distant (hub site) provider.

(c) Encryption means a system of encoding data on a Web page or email where the information can only be retrieved and decoded by the person or computer system authorized to access it.

(d) Originating or "spoke" site means the site where the patient is physically located at the time mental health services are delivered to her/him by means of telepsychiatry.

(e) Nurse practitioner in psychiatry means a person currently certified as a nurse practitioner with an approved specialty area of psychiatry (NPP) by the New York State Education Department or who possesses a permit from the New York State Education Department.

(f) Physician means a psychiatrist currently licensed to practice medicine in New York State who (i) is a diplomate of the American Board of Psychiatry and Neurology or is eligible to be certified by that Board, or (ii) is certified by the American Osteopathic Board of Neurology and Psychiatry or is eligible to be certified by that Board.

(g) Practitioner means a physician or nurse practitioner in psychiatry who is providing telepsychiatry services from a distant or hub site in accordance with the provisions of this Part.

(h) Provider of services means a provider of mental health services licensed pursuant to Article 31 of the Mental Hygiene Law.

(i) Qualified mental health professional means a practitioner possessing a license or a permit from the New York State Education Department who is qualified by credentials, training, and experience to provide direct services related to the treatment of mental illness and shall include physicians and nurse practitioner in psychiatry, as defined in subdivisions (e) and (f) of this Section, as well as the following:

(1) Creative arts therapist: a person currently licensed as a creative arts therapist by the New York State Education Department or who possesses a creative arts therapist permit from the New York State Education Department.

(2) Licensed practical nurse: a person currently licensed as a licensed practical nurse by the New York State Education Department or who possesses a licensed practical nurse permit from the New York State Education Department.

(3) Licensed psychoanalyst: a person currently licensed as a psychoanalyst by the New York State Education Department or who possesses a permit from the New York State Education Department.

(4) Licensed psychologist: a person currently licensed as a psychologist by the New York State Education Department, or who possesses a permit from the New York State Education Department and who possesses a doctoral degree in psychology, or an individual who has obtained at least a master's degree in psychology who works in a federal, state, county or municipally operated clinic.

(5) Marriage and family therapist: a person currently licensed as a marriage and family therapist by the New York State Education Department or who possesses a permit from the New York State Education Department.

(6) Mental health counselor: a person currently licensed as a mental health counselor by the New York State Education Department or who possesses a permit from the New York State Education Department.

(7) Nurse practitioner: a person currently certified as a nurse practitioner by the New York State Education Department or who possesses a permit from the New York State Education Department.

(8) Physician: a person currently licensed as a physician by the New York State Education Department or who possesses a permit from the New York State Education Department.

(9) Physician assistant: a person currently registered as a physician assistant by the New York State Education Department or who possesses a permit from the New York State Education Department.

(10) Registered professional nurse: a person currently licensed as a registered professional nurse by the New York State Education Department or who possesses a permit from the New York State Education Department.

(11) Social worker: a person who is either currently licensed as a licensed master social worker or as a licensed clinical social worker (LCSW) by the New York State Education Department, or who possesses a permit from the New York State Education Department to practice and use the title of either licensed master social worker or licensed clinical social worker.

(j) Telecommunication system means an interactive telecommunication system that is used to transmit data between the originating/ spoke and distant/hub sites.

(k) Telepsychiatry means the use of two-way real-time interactive audio and video to provide and support clinical psychiatric care at a distance. Such services do not include a telephone conversation, electronic mail message, or facsimile transmission between a provider and a patient or a consultation between two physicians or nurse practitioners, or other staff, although these activities may support telepsychiatry services.

§ 596.5 Approval to Utilize Telepsychiatry Services.

(a) Telepsychiatry services may be authorized by the Office for assessment and treatment services provided by physicians or nurse practitioners, as defined in Section 596.4 of this Part, from a site distant from the location of a patient, where the patient is physically located at an originating/ spoke site licensed by the Office, and the physician or nurse practitioner is physically located at a distant/hub site.

(b) A provider of services must obtain prior written approval of the Office before utilizing telepsychiatry services.

(c) Approval shall be based on receipt by the Office of the following:

(1) Sufficient written demonstration that telepsychiatry will be used for assessment and treatment services consistent with the provisions of this Part, and that the services are being requested because they are necessary to improve the quality of care of individuals receiving services;

(2) Submission of a written plan to provide telepsychiatry services that satisfies the provisions of this Part and includes:

(i) confidentiality protections for persons who receive telepsychiatry services, including measures to ensure the security of the electronic transmission;

(ii) informed consent of persons who receive telepsychiatric services;

(iii) procedures for handling emergencies with persons who receive telepsychiatric services; and

(iv) contingency procedures to use when the delivery of telepsychiatric service is interrupted, or when the transmission of the two-way interactions is deemed inadequate for the purpose of service provision.

(d) Requests for approval to offer telepsychiatry services shall be submitted to the Field Office serving the area in which the originating/ spoke site is located. If both sites are licensed by the Office, then the request for approval shall be submitted by the originating site. Such Field Office may make an on-site visit to either or both sites prior to issuing approval.

(e) The Office shall provide its approval to utilize telepsychiatry services in writing. The provider of services must retain a copy of the approval document and shall make it available for inspection upon request of the Office.

(f) Failure to adhere to the requirements set forth in this Part may be grounds for revocation of such approval. In the event that the Office determines that approval to utilize telepsychiatry services must be revoked, it will notify the provider of services of its decision in writing. The provider of services may request an informal administrative review of such decision.

(1) The provider of services must request such review in writing within 15 days of the date it receives notice of revocation of approval to utilize telepsychiatry services to the Commissioner or designee. The request shall state specific reasons why such provider considers the revocation of approval incorrect and shall be accompanied by any supporting evidence or arguments.

(2) The Commissioner or designee shall notify the provider of services, in writing, of the results of the informal administrative review within 20 days of receipt of the request for review. Failure of the Commissioner or designee to respond within that time shall be considered confirmation of the revocation of deemed status.

(3) The Commissioner's determination after informal administrative review shall be final and not subject to further administrative review.

§ 596.6 Requirements for Telepsychiatry Services.

(a) General requirements.

(1) The distant/ hub site practitioner must:

(i) possess a current, valid license to practice in New York State;

(ii) directly render the telepsychiatry service;

(iii) abide by the laws and regulations of the State of New York including the New York State Mental Hygiene Law and any other law, regulation, or policy that governs the assessment or treatment service being provided; and

(iv) exercise the same standard of care as in-house delivered services; and

(v) be enrolled in the Medicaid program.

(2) The distant/hub practitioner and originating/spoke site provider of service must not be terminated, suspended, or barred from the Medicaid or Medicare program.

(3) If the originating/spoke site is a hospital, the distant/hub practitioner must be credentialed and privileged by such hospital, consistent with applicable accreditation standards.

(4) Telepsychiatry services must be rendered using an interactive telecommunication system.

(5) A notation must be made in the clinical record that indicates that the service was provided via telepsychiatry and which specifies the time the service was started and the time it ended.

(6) Telepsychiatry services provided to patients under age 18 may include staff that are qualified mental health professionals, as such term is defined in this Part, in the room with the patient. Such determinations shall be clinically based, consistent with clinical guidelines issued by the Office.

(7) For the purposes of this Part, telepsychiatry services shall be considered face-to-face contacts when the service is delivered in accordance with the provisions of the plan approved by the Office pursuant to Section 596.5 of this Part.

(8) Culturally competent interpreter services shall be provided in the patient's preferred language when the patient and distant/hub practitioners do not speak the same language.

(9) The practitioner providing telepsychiatry services at a distant/hub site shall be considered an active part of the patient's treatment team and shall be available for discussion of the case or for interviewing family members and others, as the case may require. Such practitioner shall prepare appropriate progress notes and securely forward them to the originating/spoke provider as a condition of reimbursement.

(10) Telepsychiatry services shall not be used:

(i) for purposes of ordering medication over objection or restraint or seclusion, as defined in section 526.4 of this Title; or

(ii) to satisfy any specific statutory examination, evaluation or assessment requirement necessary for the involuntary removal from the community, or involuntary retention in a hospital pursuant to any of the provisions of Article 9 of the Mental Hygiene Law. Physicians conducting such examinations, evaluations or assessments may only utilize telepsychiatry on a consultative basis.

(b) Protocols and Procedures. A provider of services approved to utilize telepsychiatry services must have written protocols and procedures that address the following:

(1) Informed Consent: Protocols must exist affording persons receiving services the opportunity to provide informed consent to participate in any services utilizing telepsychiatry, including the right to refuse these services and to be apprised of the alternatives to telepsychiatry services, including any delays in service, need to travel, or risks associated with not having the services provided by telepsychiatry.

(i) The patient must be provided with basic information about telepsychiatry and shall provide his or her informed consent to participate in services utilizing this technology.

(ii) For patients under age 18, such information shall be shared with and informed consent obtained from the patient's parent or guardian.

(iii) The patient has the right to refuse to participate in telepsychiatry services, in which case evaluations must be conducted in-person by appropriate clinicians.

(iv) Telepsychiatry sessions shall not be recorded without the patient's consent.

(2) Confidentiality: Protocols and procedures should be maintained as required by Mental Hygiene Law Section 33.13 and the Health Insurance Portability and Accountability Act (HIPAA) at 45 CFR Parts 160 and 164. Such protocols shall ensure that all current confidentiality requirements and protections that apply to written clinical records shall apply to services delivered by telecommunications, including the actual transmission of the service, any recordings made during the time of transmission, and any other electronic records.

(i) All confidentiality requirements that apply to written medical records shall apply to services delivered by telecommunications, including the actual transmission of the service, any recordings made during the time of transmission, and any other electronic records.

(ii) The spaces occupied by the patient at the originating/spoke site and the practitioner at the distant/hub site must meet the minimum standards for privacy expected for patient-clinician interaction at a single Office of Mental Health licensed location.

(3) Security of Electronic Transmission: All telepsychiatry services must be performed on dedicated secure transmission linkages that meet minimum federal and state requirements, including but not limited to 45 C.F.R. Parts 160 and 164 (HIPAA Security Rules), and which are consistent with guidelines of the Office. Transmissions must employ acceptable authentication and identification procedures by both the sender and the receiver.

(4) Psychiatric emergencies: Protocols should exist to address psychiatric emergencies, which may override the right to confidentiality to require the presence of others if, for instance, an individual receiving services is suicidal, homicidal, dissociated, or acutely psychotic during the evaluation or treatment service. In general this individual should not be managed via telepsychiatry without qualified mental health professionals present at the originating/spoke site, unless there are no adequate alternatives and immediate intervention is deemed essential for patient safety. All telepsychiatry sites must have a written procedure detailing the availability of in-person assessments by a physician or nurse practitioner in an emergency situation.

(5) Prescribing medications via telepsychiatry: Procedures for prescribing medications through telepsychiatry must be identified and must be in accordance with applicable New York State and federal regulations.

(6) Procedures for first evaluations for involuntary commitments: Under New York State law, physicians must conduct first evaluations for involuntary commitments of individuals. If these evaluators want additional consultation before rendering their decision, they may obtain consultation from psychiatrists via telepsychiatry. The responsibility for signing the commitment papers remains with the physician who actually conducted the evaluation of the individual at the facility, not the psychiatrist who provided the telepsychiatric consultation.

(7) Patient rights: Patient rights policies must ensure that each individual receiving telepsychiatry services:

(i) is informed and made aware of the role of the practitioner at the distant/hub site, as well as qualified professional staff at the originating/spoke site who are going to be responsible for follow-up or on-going care;

(ii) is informed and made aware of the location of the distant/hub site and all questions regarding the equipment, the technology, etc., are addressed;

(iii) has the right to have appropriately trained staff immediately available to him/her while receiving the telepsychiatry service to attend to emergencies or other needs; and

(iv) has the right to be informed of all parties who will be present at each end of the telepsychiatry transmission.

(8) Quality of Care: All telepsychiatry sites shall have established written quality of care protocols to ensure that the services meet the requirements of New York state and federal laws and established patient care standards. A review of telepsychiatry services shall be included in the provider's quality management process.

(9) Contingency Plan: All telepsychiatry sites must have a written procedure detailing the contingency plan when there is a failure of the transmission or other technical difficulties that render the service undeliverable.

(c) Guidelines of the Office. The Office shall develop guidelines to assist providers in complying with the provisions of this Part and in achieving treatment goals through the use of telepsychiatry. The Office shall post such guidelines on its public website.

§ 596.7 Reimbursement for Telepsychiatry Services.

(a) The originating/spoke site where the patient is admitted is authorized to bill Medicaid for telepsychiatry services.

(b) Under the Medicaid program, telepsychiatry services are covered when medically necessary and under the following circumstances:

(1) the person receiving services is located at the originating/spoke site and the practitioner is located at the distant/hub site;

(2) the originating/spoke site is the provider of services where the person receiving services and referring physician are located;

(3) the distant/hub site is the site where the practitioner is located;

(4) the person receiving services is present during the telepsychiatry encounter or consultation;

(5) the physician/nurse practitioner is not conducting the telepsychiatry encounter consultation at the originating/spoke site;

(6) the request for telepsychiatry services and the rationale for the request are documented in the individual's clinical record;

(7) the clinical record includes documentation that the telepsychiatry encounter or consultation occurred and that the results and findings were communicated to the requesting provider of services;

(8) the practitioner at the distant/hub site is:

(i) licensed in New York State;

(ii) practicing within his/her scope of specialty practice;

(iii) enrolled in New York Medicaid;

(iv) affiliated with the originating/spoke site facility; and

(v) if the originating/spoke site is a hospital, credentialed and privileged at the originating/spoke site facility.

(c) If the person receiving services is not present during the provision of the telepsychiatry service, the service is not eligible for Medicaid reimbursement and remains the responsibility of the originating/spoke facility.

(d) The following interactions do not constitute reimbursable telepsychiatry services;

(1) telephone conversations;

(2) video cell phone interactions;

(3) e-mail messages.

(e) The originating/spoke site may bill for administrative expenses only when a telepsychiatric connection is being provided and a physician or nurse practitioner is not present with the patient at the time of the encounter.

(f) Reimbursement for services provided via telepsychiatry must be in accordance with the rates and fees established by the Office and approved by the Director of the Budget.

(g) If all or part of a telepsychiatry service is undeliverable due to a failure of transmission or other technical difficulty, reimbursement shall not be provided.

§ 596.8 Contracts for the Provision of Telepsychiatry Services.

(a) Nothing in this Part shall be deemed to prohibit a provider of services from providing assessment and treatment services, consistent with applicable regulations of the Office, as a distant/hub site via telepsychiatry pursuant to contract with an originating/spoke site provider that is not licensed or operated by the Office, but which is enrolled in the Medicaid program.

(b) Although prior approval of the Office is not required before entering into such contracts, notice of such contracts or agreements shall be provided by the distant/hub provider of services within 30 days after execution of such contract to the Field Office serving the area where such provider of services is located.

(c) Reimbursement for telepsychiatry service shall be pursuant to such contracts and are not separately billable by the distant/hub site.

(d) Providers of service shall not engage in distant/hub telepsychiatric services that violate the provisions of paragraph (10) of subdivision (a) of Section 596.6 of this Part.

Text of proposed rule and any required statements and analyses may be obtained from: Kim Breen, NYS Office of Mental Health, 44 Holland Avenue, Albany, NY 12229, (518) 474-1331, email: regs@omh.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement

1. Statutory Authority: Sections 7.09 and 31.04 of the Mental Hygiene Law grant the Commissioner of Mental Health the authority and responsibility to adopt regulations that are necessary and proper to implement matters under his or her jurisdiction.

2. Legislative Objectives: Articles 7 and 31 of the Mental Hygiene Law reflect the Commissioner's authority to establish regulations regarding mental health programs.

3. Needs and Benefits: Technology has made it possible to increase access to health care, including behavioral health care, by utilizing secure interactive communications. Telepsychiatry is the use of electronic communication and information technologies to provide or support clinical psychiatric care at a distance. Telepsychiatry is appropriate in situations where on-site services are not available due to distance, location, time of day, or availability of resources. The many advantages offered through telepsychiatry have led to a rapid expansion of such programs across New York State and the rest of the country. While clinical practice standards are developing along with this proliferation, OMH regulations currently address the use of telepsychiatry only in OMH licensed clinics. These amendments are intended to establish basic standards and parameters to approve the use of telepsychiatry by providers licensed pursuant to Article 31 of the Mental Hygiene Law that choose to offer this services; however, telepsychiatry shall not be utilized in Personalized Recovery Oriented Services (PROS) programs subject to Part 512 of this Title or Assertive Community Treatment (ACT) programs approved pursuant to Part 551 of this Title. This regulatory proposal also serves to repeal the telepsychiatry provisions found in 14 NYCRR Section 599.17 because they will be unnecessary upon promulgation of these amendments.

4. Costs: Costs to implement telepsychiatry, in general, are significantly offset by the cost savings that can result from its use, in terms of commuting time, cost of fuel, losses due to "no show" appointments, and number of appointments that can be booked per day. Specifically:

(a) cost to State government: There are no new costs to State government as a result of these amendments.

(b) cost to local government: There are no new costs to local government as a result of these amendments.

(c) cost to regulated parties: For providers that wish to offer these services (which includes any provider licensed pursuant to Article 31 of the Mental Hygiene Law with the exception of PROS and ACT program providers), the minimum requirements for an Internet-based solution are approximately $120 for a Webcam and then a WebEx end user license. Software licensing cost can vary, depending on the number of users at a site.

5. Local Government Mandates: The provision of this service is not required. These regulatory amendments will not involve or result in any additional imposition of duties or responsibilities upon county, city, town, village, school, or fire districts.

6. Paperwork: For providers that wish to provide this service, written plans must be submitted for approval by the Office.

7. Duplication: These regulatory amendments do not duplicate existing State or federal requirements.

8. Alternatives: OMH has been granting regulatory waivers in accordance with 14 NYCRR Part 501 to providers that have wished to provide telepsychiatry services. OMH could continue to grant such waivers on an ad hoc basis; however, given the interest in, and advantages to, this service, OMH wishes to advance these amendments to establish basic standards for the provision of telepsychiatry services to ensure quality and efficacy.

9. Federal Standards: There are currently no federal standards specific to the provision of in-state telepsychiatry. However, the regulatory amendments conform to the minimum standards of the federal government with respect to the privacy and security of transmissions of protected health information (45 C.F.R. Parts 160 and 164, or HIPAA). In addition, the regulatory amendments are consistent with the definition of "telemedicine" issued by the Centers for Medicare and Medicaid Services (42 U.S.C. §§ 1395m(m)(1), 42 C.F.R.§ 410.78(a)(3)).

10. Compliance Schedule: The amendments would be effective upon adoption.

Regulatory Flexibility Analysis

The amendments to 14 NYCRR Part 596 are intended to establish basic standards and parameters to approve the use of telepsychiatry in certain OMH-licensed programs that choose to offer this service. The provision of telepsychiatry services is not required, and the amendments themselves do not create new local government mandates. As a result of this rule making, the regulations with respect to telepsychiatry will be located in a new Part, specifically 14 NYCRR Part 596; therefore, the existing telepsychiatry provisions in 14 NYCRR Section 599.17 must be repealed to avoid confusion to providers of service. As there will be no adverse economic impact on small businesses or local governments as a result of

these amendments, a regulatory flexibility analysis is not submitted with this notice.

Rural Area Flexibility Analysis

The amendments to 14 NYCRR Part 596 are intended to establish basic standards and parameters to approve the use of telepsychiatry in certain OMH-licensed programs that choose to offer this service. The provision of telepsychiatry services is not required. As a result of this rule making, the regulations with respect to telepsychiatry will be located in a new Part, specifically 14 NYCRR Part 596; therefore, the existing telepsychiatry provisions in 14 NYCRR Section 599.17 must be repealed to avoid confusion to providers of service. The proposed rule will not impose any adverse economic impact on rural areas; therefore, a Rural Area Flexibility Analysis is not submitted with this notice.

Job Impact Statement

The amendments to 14 NYCRR Part 596 are intended to establish basic standards and parameters to approve the use of telepsychiatry in certain OMH-licensed programs that choose to offer this service. The provision of telepsychiatry services is not required. As a result of this rule making, the regulations with respect to telepsychiatry will be located in a new Part, specifically 14 NYCRR Part 596; therefore, the existing telepsychiatry provisions in 14 NYCRR Section 599.17 must be repealed to avoid confusion to providers of service. Because it is evident from the subject matter that there will be no adverse impact on jobs and employment opportunities as a result of these amendments, a Job Impact Statement is not submitted with this notice.

Public Service Commission

PROPOSED RULE MAKING HEARING(S) SCHEDULED

Major Electric Rate Filing

I.D. No. PSC-17-16-00004-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: The Commission is considering a proposal filed by Consolidated Edison Company of New York, Inc. (Con Edison) to make various changes in the rates, charges, rules and regulations contained in its Schedules P.S.C. Nos. 10 and 12 — Electricity.

Statutory authority: Public Service Law, sections 5, 65 and 66

Subject: Major electric rate filing.

Purpose: To consider an increase in Con Edison's electric delivery revenues of approximately $482 million or 9.5%.

Public hearing(s) will be held at: 10:00 a.m. (Evidentiary Hearing)*, July 20, 2016 and continuing daily as needed at Department of Public Service, 90 Church St., 4th Fl. Boardroom, New York, NY.

*On occasion, there are requests to reschedule or postpone evidentiary hearing dates. If such a request is granted, notification of any subsequent scheduling changes will be available at the DPS website (www.dps.ny.gov) under Cases 16-E-0060 and 16-G-0061.

Interpreter Service: Interpreter services will be made available to hearing impaired persons, at no charge, upon written request submitted within reasonable time prior to the scheduled public hearing. The written request must be addressed to the agency representative designated in the paragraph below.

Accessibility: All public hearings have been scheduled at places reasonably accessible to persons with a mobility impairment.

Substance of proposed rule: The Commission is considering a proposal filed by Consolidated Edison Company of New York, Inc. (Con Edison) to increase its electric delivery revenues for the rate year ending December 31, 2017 by approximately $482 million (or 9.5%) which includes customer credits of $117 million. Con Edison's requested increase in delivery revenues results in an average residential monthly delivery bill increase of $8.39 (10.2%), or a 6.0% increase on the total bill for a customer using 600 kWh. The initial suspension period for the proposed filing runs through June 26, 2016. The Commission may adopt, reject or modify, in whole or in part, the relief proposed and may resolve related matters.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website http://www.dps.ny.gov/f96dir.htm. For questions, contact: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov

Data, views or arguments may be submitted to: Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.ny.gov

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(16-E-0060SP1)

PROPOSED RULE MAKING HEARING(S) SCHEDULED

Major Gas Rate Filing

I.D. No. PSC-17-16-00005-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: The Commission is considering a proposal filed by The Brooklyn Union Gas Company d/b/a National Grid NY (KEDNY) to make various changes in the rates, charges, rules and regulations contained in its Schedule P.S.C. No. 12—Gas.

Statutory authority: Public Service Law, sections 5, 65 and 66

Subject: Major gas rate filing.

Purpose: To consider an increase in KEDNY's gas delivery revenues by approximately $290 million or 32%.

Public hearing(s) will be held at: 10:00 a.m. (Evidentiary Hearing)*, June 27, 2016 and daily on succeeding business days as needed at Department of Public Service, Agency Bldg. 3, 19th Fl. Boardroom, Albany, NY.

*On occasion, there are requests to reschedule or postpone evidentiary hearing dates. If such a request is granted, notification of any subsequent scheduling changes will be available at the DPS website (www.dps.ny.gov) under Cases 16-G-0058 and 16-G-0059.

Interpreter Service: Interpreter services will be made available to hearing impaired persons, at no charge, upon written request submitted within reasonable time prior to the scheduled public hearing. The written request must be addressed to the agency representative designated in the paragraph below.

Accessibility: All public hearings have been scheduled at places reasonably accessible to persons with a mobility impairment.

Substance of proposed rule: The Commission is considering a proposal filed by The Brooklyn Union Gas Company d/b/a National Grid NY (KEDNY) to increase its gas delivery revenues for the rate year ending December 31, 2017 by approximately $290 million (or 32%). KEDNY also proposed a decrease to the Site Investigation and Remediation Surcharge of approximately $45 million and the net increase in revenues results in a total annual bill increase of about $193 (26.7% on the delivery bill or 16.4% on the total) for an average residential heating customer. The initial suspension period for the proposed filing runs through June 28, 2016. The Commission may adopt, reject or modify, in whole or in part, the relief proposed and may resolve related matters.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website http://www.dps.ny.gov/f96dir.htm. For questions, contact: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov

Data, views or arguments may be submitted to: Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.ny.gov

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(16-G-0059SP1)

PROPOSED RULE MAKING HEARING(S) SCHEDULED

Major Gas Rate Filing

I.D. No. PSC-17-16-00007-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: The Commission is considering a proposal filed by Consolidated Edison Company of New York, Inc. (Con Edison) to make various changes in the rates, charges, rules and regulations contained in its Schedule P.S.C. No. 9—Gas.

Statutory authority: Public Service Law, sections 5, 65 and 66

Subject: Major gas rate filing.

Purpose: To consider an increase in Con Edison's gas delivery revenues of approximately $154 million or 13.4%.

Public hearing(s) will be held at: 10:00 a.m. (Evidentiary Hearing)*, July 20, 2016 and continuing daily as needed at Department of Public Service, 90 Church St., 4th Fl. Boardroom, New York, NY.

*On occasion, there are requests to reschedule or postpone evidentiary hearing dates. If such a request is granted, notification of any subsequent scheduling changes will be available at the DPS website (www.dps.ny.gov) under Cases 16-E-0060 and 16-G-0061.

Interpreter Service: Interpreter services will be made available to hearing impaired persons, at no charge, upon written request submitted within reasonable time prior to the scheduled public hearing. The written request must be addressed to the agency representative designated in the paragraph below.

Accessibility: All public hearings have been scheduled at places reasonably accessible to persons with a mobility impairment.

Substance of proposed rule: The Commission is considering a proposal filed by Consolidated Edison Company of New York, Inc. (Con Edison) to increase its gas delivery revenues for the rate year ending December 31, 2017 by approximately $154 million (or 13.4%). Con Edison's requested increase in gas delivery revenues results in an annual bill increase of about $132 (11.5% on the delivery bill or 7.7% increase on the total bill) for a typical residential heating customer. The initial suspension period for the proposed filing runs through June 26, 2016. The Commission may adopt, reject or modify, in whole or in part, the relief proposed and may resolve related matters.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website http://www.dps.ny.gov/f96dir.htm. For questions, contact: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov

Data, views or arguments may be submitted to: Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.ny.gov

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(16-G-0061SP1)

PROPOSED RULE MAKING HEARING(S) SCHEDULED

Major Gas Rate Filing

I.D. No. PSC-17-16-00008-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: The Commission is considering a proposal filed by KeySpan Gas East Corp. d/b/a Brooklyn Union of L.I. (KEDLI) to make various changes in the rates, charges, rules and regulations contained in its Schedules P.S.C. Nos. 18 and 19 — Gas.

Statutory authority: Public Service Law, sections 5, 65 and 66

Subject: Major gas rate filing.

Purpose: To consider an increase in KEDLI's gas delivery revenues by approximately $175 million or 27%.

Public hearing(s) will be held at: 10:00 a.m. (Evidentiary Hearing)*, June 27, 2016 and daily on succeeding business days as needed at Department of Public Service, Agency Bldg. 3, 19th Fl. Boardroom, Albany, NY.

*On occasion, there are requests to reschedule or postpone evidentiary hearing dates. If such a request is granted, notification of any subsequent scheduling changes will be available at the DPS website (www.dps.ny.gov) under Cases 16-G-0058 and 16-G-0059.

Interpreter Service: Interpreter services will be made available to hearing impaired persons, at no charge, upon written request submitted within reasonable time prior to the scheduled public hearing. The written request must be addressed to the agency representative designated in the paragraph below.

Accessibility: All public hearings have been scheduled at places reasonably accessible to persons with a mobility impairment.

Substance of proposed rule: The Commission is considering a proposal filed by KeySpan Gas East Corporation d/b/a Brooklyn Union of L.I. (KEDLI) to increase its gas delivery revenues for the rate year ending December 31, 2017 by approximately $175 million (or 27%). KEDLI also proposed a decrease to the Site Investigation and Remediation Surcharge of approximately $34 million and the net increase in revenues results in a total annual bill increase of about $198 (20.0% on the delivery bill or 15.5% on the total) for an average residential heating customer. The initial suspension period for the proposed filing runs through June 28, 2016. The Commission may adopt, reject or modify, in whole or in part, the relief proposed and may resolve related matters.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website http://www.dps.ny.gov/f96dir.htm. For questions, contact: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov

Data, views or arguments may be submitted to: Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.ny.gov

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(16-G-0058SP1)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Proposal to Revise General Rule 20 Standby Service

I.D. No. PSC-17-16-00006-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: The Commission is considering a proposal filed by Consolidated Edison Company of New York, Inc. to revise General Rule 20 Standby Service contained in its electric tariff schedules, P.S.C. Nos. 10 and 12.

Statutory authority: Public Service Law, section 66(12)

Subject: Proposal to revise General Rule 20 Standby Service.

Purpose: To consider proposed tariff revisions related to standby service multi-party offset under General Rule 20.

Substance of proposed rule: The Public Service Commission (Commission) is considering proposed tariff revisions filed on April 4, 2016 by Consolidated Edison Company of New York, Inc. (Con Edison) to its electric tariff schedules, P.S.C. Nos. 10 and 12 (PASNY), regarding standby service. Con Edison proposes to revise General Rule 20 Standby Service to establish Multi-Party Offset provisions to allow a customer that owns or operates a private generating facility, sized over 2MW and connected to the high-tension distribution system, to use the output of the generating facility to offset usage on its own account(s) and one or more other customers' accounts located in the same building. Con Edison proposes changes applicable to both the Single Party Offset and Multi-Party Offset to include: (1) that service must be taken under Service Clas-

sification No. 11 if the export of the generating facility exceeds the aggregate registered kWh usage on the Standby Service account; (2) that the Standby Service accounts supplied by the output of the generating facility shall have no other source of generation located on the premises except as permitted under General Rule 8.2 and shall not participate under Rider R–Net Metering for Customer Generators; and (3) the addition of tariff language to clarify that the Output Meter must be Commission-approved and if provided by Con Edison, the cost will be recovered as part of the Interconnection Charge. Con Edison proposes to revise Form G, its application for Standby Service to include the Multi-Party Offset option. Under its PASNY tariff, Con Edison proposes the same requirements established for Single Party Offset for Multi-Party Offset along with: (1) the responsibility for coordinating the interconnection and operation of the generating facility will be with New York Power Authority (NYPA); (2) the Output Meter must be furnished and installed at NYPA's expense; (3) NYPA must arrange and maintain the communications service; and, (4) Con Edison will provide kW credits for the generator's output but not kWh credits. The proposed amendments have an effective date of July 21, 2016. The Commission may adopt, modify, or reject, in whole or in part, the relief proposed and may resolve related matters.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website http://www.dps.ny.gov/f96dir.htm. For questions, contact: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov

Data, views or arguments may be submitted to: Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.ny.gov

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(16-E-0196SP1)

Office of Temporary and Disability Assistance

NOTICE OF ADOPTION

Public Assistance (PA) Resources Exemption for Four-Year Accredited Post-Secondary Educational Institutions

I.D. No. TDA-45-15-00012-A

Filing No. 367

Filing Date: 2016-04-08

Effective Date: 2016-04-27

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of section 352.23(b)(4) of Title 18 NYCRR.

Statutory authority: Social Services Law, sections 17(a)-(b), (i), 20(2)-(3)(d), 34(3)(f), 131(1) and 131-n; L. 2014, ch. 58, part J, section 5

Subject: Public Assistance (PA) resources exemption for four-year accredited post-secondary educational institutions.

Purpose: To update State regulation governing PA resources exemption, rendering it consistent with chapter 58 of the Laws of 2014.

Text or summary was published in the November 10, 2015 issue of the Register, I.D. No. TDA-45-15-00012-P.

Final rule as compared with last published rule: No changes.

Text of rule and any required statements and analyses may be obtained from: Richard P. Rhodes, Jr., Associate Attorney, New York State Office of Temporary and Disability Assistance, 40 North Pearl Street, 16C, Albany, NY 12243-0001, (518) 486-7503, email: richard.rhodesjr@otda.ny.gov

Initial Review of Rule

As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2021, which is no later than the 5th year after the year in which this rule is being adopted.

Assessment of Public Comment

The agency received no public comment.

NOTICE OF ADOPTION

Referrals of Human Trafficking Victims from Established Providers of Social or Legal Services

I.D. No. TDA-03-16-00001-A

Filing No. 365

Filing Date: 2016-04-08

Effective Date: 2016-04-27

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of sections 765.1 and 765.2(d)-(e); renumbering of section 765.2(f)-(g) to 765.2(g)-(h); and addition of new section 765.2(f) to Title 18 NYCRR.

Statutory authority: Social Services Law, sections 17(a)-(b), (i), 20(2)-(3)(d) and 34(3)(f); L. 2015, ch. 368; L. 2011, ch. 24; L. 2007, ch. 74

Subject: Referrals of human trafficking victims from established providers of social or legal services.

Purpose: Conform State regulations to referral requirements of chapter 368 of the Laws of 2015.

Text of final rule: Section 765.1 is amended to read as follows:

§ 765.1 Scope.

The provisions of this Part shall govern the process and protocols for the Office of Temporary and Disability Assistance in assessing, and the social services districts in identifying, an individual as a State-confirmed human trafficking victim in New York State. In conjunction with the Division of Criminal Justice Services and Part 6174 of Title 9 NYCRR, *the Office of Victim Services, and the Office for the Prevention of Domestic Violence,* this Part shall also include defining the participant parties, the victim, the nature of the consultative role in the confirmation and appeal processes, and the process for required notifications, referrals and assistance to the prescribed parties.

§ 765.2 Definitions.

Subdivision (d) of § 765.2 is amended to read as follows:

(d) The term subject of referral shall mean a human trafficking victim referred by a statutory referral source under section [483-CC(A)] *483-cc(a)* of the Social Services Law to the division and the office for assessment as a State-confirmed human trafficking victim.

Subdivision (e) of § 765.2 is amended to read as follows:

(e) The term statutory referral source shall mean either (i) the law enforcement agency or district attorney's office*, or (ii) an established provider of social or legal services designated by the office, the Office for the Prevention of Domestic Violence, or the Office of Victim Services* that, as soon as practicable after a first encounter with a person who reasonably appears to be a human trafficking victim, refers such human trafficking victim to the division and the office for assessment as a State-confirmed human trafficking victim. *Provided however, in the case of an established provider of social or legal services, such established provider shall make such referral if the victim consents to seeking services pursuant to section 483-cc(a) of the Social Services Law.*

Subdivisions (f) and (g) of § 765.2 are re-lettered subdivisions (g) and (h), and a new subdivision (f) is added to § 765.2 to read as follows:

(f) The term established provider of social or legal services shall include public agencies, county or municipal governments, or any subdivisions thereof; not-for-profit corporations, including charitable organizations incorporated, registered and in good standing with the charities bureau of the New York State Attorney General's Office; faith-based organizations; and educational institutions.

(g) The term State-confirmed human trafficking victim shall mean a human trafficking victim referred by a statutory referral source who appears to meet the criteria for certification as a victim of a severe form of trafficking in persons pursuant to the federal Trafficking Victims Protection Act set forth in section 7105 of 22 U.S.C. (United States Code Annotated, Title 22, section 7105; Thomson West, West Headquarters, 610 Opperman Drive, Eagan, MN 55123. Copies may be obtained from the Office of Temporary and Disability Assistance, Public Information Office, 40 North Pearl Street, Albany, New York 12243-0001) or appears to be otherwise eligible for any Federal, State, or local benefits and services, in the judgment of the division, in consultation with the office and statutory referral source.

(h) The term case management provider shall mean [and] *an* entity under contract with the office pursuant to section [483-BB(B)] *483-bb(b)* of the Social Services Law to provide services to certain State-confirmed human trafficking victims.

Final rule as compared with last published rule: Nonsubstantive changes were made in section 765.2(e).

Text of rule and any required statements and analyses may be obtained from: Richard P. Rhodes, Jr., New York State Office of Temporary and Disability Assistance, 40 North Pearl Street 16C, Albany, NY 12243-0001, (518) 486-7503, email: richard.rhodesjr@otda.ny.gov

Revised Regulatory Impact Statement

Changes made to the published rule do not necessitate revision of the previously published RIS. In the new subdivision 18 NYCRR § 765.2(e), language was added to the regulatory text to align it with Social Services Law (SSL) § 483-cc(a) to clarify that a human trafficking victim's consent to seek services pursuant to SSL § 483-cc(a) is required in order for an established provider of social or legal services to refer the victim to the Division of Criminal Justice Services (DCJS) and Office of Temporary and Disability Assistance as a State-confirmed human trafficking victim. This revision was made in response to public comments and merely clarifies that the human trafficking victim's consent to seek services is required before an established provider of social or legal services refers the victim to the DCJS and OTDA as a State-confirmed human trafficking victim.

The clarifying language added has no substantive effect on the content of the published RIS; consequently, a revised RIS is unnecessary.

Revised Regulatory Flexibility Analysis

Changes made to the published rule do not necessitate revision of the previously published RFASB&LG In the new subdivision 18 NYCRR § 765.2(e), language was added to the regulatory text to align it with Social Services Law (SSL) § 483-cc(a) to clarify that a human trafficking victim's consent to seek services pursuant to SSL § 483-cc(a) is required in order for an established provider of social or legal services to refer the victim to the Division of Criminal Justice Services (DCJS) and Office of Temporary and Disability Assistance as a State-confirmed human trafficking victim. This revision was made in response to public comments and merely clarifies that the human trafficking victim's consent to seek services is required before an established provider of social or legal services refers the victim to the DCJS and OTDA as a State-confirmed human trafficking victim.

The clarifying language added has no substantive effect on the content of the published RFASB&LG consequently, a revised RFASB&LG is unnecessary.

Revised Rural Area Flexibility Analysis

Changes made to the published rule do not necessitate revision of the previously published RAFA. In the new subdivision 18 NYCRR § 765.2(e), language was added to the regulatory text to align it with Social Services Law (SSL) § 483-cc(a) to clarify that a human trafficking victim's consent to seek services pursuant to SSL § 483-cc(a) is necessary in order for an established provider of social or legal services to refer the victim to the Division of Criminal Justice Services (DCJS) and Office of Temporary and Disability Assistance as a State-confirmed human trafficking victim. This revision was made in response to public comments and merely clarifies that the human trafficking victim's consent to seek services is required before an established provider of social or legal services refers the victim to the DCJS and OTDA as a State-confirmed human trafficking victim.

The clarifying language added has no substantive effect on the content of the published RAFA; consequently, a revised RAFA is unnecessary.

Revised Job Impact Statement

Changes made to the published rule do not necessitate revision of the previously published JIS. In the new subdivision 18 NYCRR § 765.2(e), language was added to the regulatory text to align it with Social Services Law (SSL) § 483-cc(a) to clarify that a human trafficking victim's consent to seek services pursuant to SSL § 483-cc(a) is required in order for an established provider of social or legal services to refer the victim to the Division of Criminal Justice Services (DCJS) and Office of Temporary and Disability Assistance as a State-confirmed human trafficking victim. This revision was made in response to public comments and merely clarifies that the human trafficking victim's consent to seek services is required before an established provider of social or legal services refers the victim to the DCJS and OTDA as a State-confirmed human trafficking victim.

The clarifying language added has no substantive effect on the content of the published JIS; consequently, a revised JIS is unnecessary.

Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2019, which is no later than the 3rd year after the year in which this rule is being adopted.

Assessment of Public Comment

The Office of Temporary and Disability Assistance (OTDA) received one comment relative to the regulatory amendments. This comment has been reviewed and duly considered in this Assessment of Public Comments.

The comment suggested revising the proposed regulatory text in 18 NYCRR § 765.2(e) to align it with Social Services Law (SSL) § 483-cc(a) to clarify that a human trafficking victim's consent to seek services pursuant to SSL § 483-cc(a) is required in order for an established provider of social or legal services to refer the victim to the Division of Criminal Justice Services and OTDA as a State-confirmed human trafficking victim. OTDA agrees with this comment, and has revised the regulatory text to include the clarifying reference.