

New York State Department of Health
Frequently Asked Questions on Public Health Law §2805-z

Public Health Law 2805-z

1. What is New York State Public Health Law §2805-z?

On December 23, 2020, New York’s Public Health Law (PHL) was amended to address domestic violence by adding §2805-z. The purpose of this new section is to require hospitals to establish policies and procedures regarding domestic violence; establish ongoing training programs on domestic violence for all current and new hospital employees; designate a hospital staff member to coordinate services to victims; provide for the interaction of hospitals with community domestic violence service providers in order to coordinate services to victims of domestic violence; and requires hospitals to offer to contact a local advocate when admitting or treating a confirmed or suspected victim of domestic violence.

Domestic violence is a public health issue that affects the health and well-being of many individuals regardless of gender, race, ethnicity, age, socio-economic status, religion, or sexual orientation. With the proper training and tools, hospital staff can play a significant role in recognizing and responding to domestic violence, and in turn, improve patients’ physical and emotional health and safety, and reduce domestic violence incidents.

2. Who does PHL §2805-z apply to?

PHL §2805-z applies to all general hospitals in New York State. A general hospital refers to any acute care settings such as an emergency department or in-patient unit.

3. Does PHL §2805-z apply to other Article 28 facilities including Urgent Care and Diagnostic and Treatment Centers?

PHL §2805-z does not apply to any non-acute care settings such as Urgent Care and Diagnostic and Treatment Centers. However, the New York State Department of Health and Office for the Prevention of Domestic Violence are strongly encouraging hospitals to align their policies and procedures across the hospital setting for the identification, treatment, and referral of domestic violence patients. Urgent Care and Diagnostic and Treatment Centers are critical settings for domestic violence treatment and intervention.

4. How does PHL §2805-z relate to other required hospital policies on the treatment of sexual assault and human trafficking victims (PHL §2805-i and PHL §2805-y)?

The Department recognizes that acts of domestic violence or sexual assault are common modes of coercion used by perpetrators to control human trafficking victims. With that in mind, hospital policies on domestic violence, sexual assault, and human trafficking (in accordance with PHL §2805-i, PHL §2805-y, and PHL §2805-z) should reference one another and acknowledge the intersectionality of these three policies in order to ensure survivors are connected with all of resources that they need.

5. What is the New York State Department of Health’s ‘Guidance for Developing a Model Domestic Violence Policy’? Is this model policy required?

PHL §2805-z required the New York State Department of Health, in consultation with the New York State Office for the Prevention of Domestic Violence, to develop a model policy for hospitals to utilize in complying with this section. The ‘Guidance for Developing a Model Domestic Violence Policy’ was released to all hospitals on August 11, 2021 in a Dear CEO letter (DHDTTC DAL 21-07). The model policy serves as a guide for hospitals to adapt to their own format, with more specific institutional procedures. It is an example policy that is in compliance with PHL § 2805-z. The language and specific protocols provided are not meant to replace existing hospital policies that comply with all New York State laws and regulations. Use of the model policy is not required, however, hospitals must establish and implement domestic violence policies and procedures that are in compliance with PHL §2805-z.

6. What is the definition of domestic violence?

The New York State Department of Health’s ‘Guidance for Developing a Model Domestic Violence Policy’ describes domestic violence as a pattern of behavior used by an individual to establish and maintain power and control over their intimate partner. The behavior includes abusive tactics, threats, and actions that may or may not rise to the level of criminal behavior. The victim may experience acts or threats of physical or sexual violence, as well as intimidation, humiliation, isolation, verbal abuse, and economic control. While some victims who are experiencing domestic violence present to the hospital with symptoms related to abuse, such as traumatic injury, others may show no signs of victimization. All victims of domestic violence may be at great risk of serious emotional, psychological, or physical harm, including homicide.

It is important to remember that anyone can be at risk of domestic violence.

7. Have the regulations for PHL § 2805-z been promulgated yet?

Currently, there are no regulations for PHL 2805-z. Prior to the release of regulations, hospitals must be compliant with PHL § 2805-z. Hospitals may refer to the tools that have been developed by the New York State Department of Health and the New York State Office for the Prevention of Domestic Violence to assist with compliance. All materials are located here:

<https://opdv.ny.gov/domestic-violence-training-nys-hospitals>

- Dear CEO Letter (DHDTTC DAL 21-07)
- Guidance for Developing a Model Domestic Violence Policy
- Sample Domestic Violence Screening and Assessment Tool
- Sample Strangulation Assessment and Documentation
- Domestic Violence Hospital Resource Guide
- Domestic Violence Training for NYS Hospitals
- Frequently Asked Questions on Public Health Law § 2805-z

Domestic Violence Identification and Assessment

8. How can a hospital identify a victim of domestic violence?

Every hospital must establish effective policies and procedures for the identification of domestic violence patients. There are many different screening tools and tips available online that vary in quality. For a sample screening and assessment tool, and for more tips on completing a screening, please refer to the New York State Department of Health's 'Guidance for Developing a Model Domestic Violence Policy' (pg. 3 and attachment 1).

9. Who should screen the patient for domestic violence?

Rather than completing a screening at intake or triage, it is recommended that the primary assigned health care provider complete the domestic violence screening with the patient. Patients are more likely to disclose abuse and seek assistance when they are asked directly about their circumstances by a health care provider who is directly working with them and that they perceive as caring and supportive.

Hospitals may choose to include domestic violence screening questions in written patient self-assessment questionnaires. It is recommended that this method is completed in addition to, rather than replacing, direct provider screening of patients.

10. When should the hospital screen a patient for domestic violence? Are hospitals required to screen every patient, at every encounter, for domestic violence?

Every hospital must have established and effective policies and procedures for the screening and identification of domestic violence patients. Routine screening is a key component to identifying domestic violence. These procedures should include direction on when the hospital should screen patients for domestic violence. It is not required to screen every patient at every encounter for domestic violence. Screenings should not be limited to patients who present with a complaint of domestic violence, or those with obvious or visual signs of abuse. The majority of patients who are experiencing domestic violence do not present with obvious signs and may not disclose abuse.

Therefore, it is recommended that domestic violence screening occur when a patient is admitted to the hospital, in all emergency department visits, and at predetermined intervals in ambulatory and specialty services. In primary care practices, screening is recommended for all new patients and at annual visits. In Obstetrician-Gynecologist practices, screening is recommended at annual visits, during at least one prenatal visit, and at antepartum admissions. In any setting, a screening should occur every time a patient presents with indicators of abuse. It is important to note that indicators of abuse extend beyond signs of physical abuse. For a list of domestic violence indicators, refer to the New York State Department of Health 'Guidance for Developing a Model Domestic Violence Policy' (pg 6).

11. Within what timeframe of admission or ED visit does the screening need to be completed?

There is no requirement for when to complete a screening once an individual is admitted or registered to the hospital. A screening may be completed at any time while meeting with the patient and may vary based on information received and the acute care needs of the patient.

12. Is an assessment tool for the purposes of screening and evaluating the patient a requirement that must be added to the medical record? If not, what are the documentation requirements?

The sample "Domestic Violence Screening and Assessment Tool" within the New York State Department of Health's 'Guidance for Developing a Model Domestic Violence Policy' is not a required tool. This is provided as an example but not meant to replace any existing hospital protocols for domestic violence screening. A comprehensive assessment tool to assist providers with compliance with the hospitals protocol is strongly recommended. Each hospital is required to develop policies and procedures that include any necessary instructions on documentation. The model policy provides a sample written policy for documenting domestic violence screening, assessment, treatment, and referrals.

Domestic Violence Treatment and Referral

13. When a patient has been positively screened as a confirmed or suspected domestic violence victim, what is the hospital required to do?

If the patient has a positive screen, the hospital is required to have established and effective policies and procedures for the treatment and referral of domestic violence patients. In addition to any institutional treatment and referral procedures, the hospital must notify the victim of the availability of services from a local domestic violence or victim assistance organization. If the victim requests the presence of a domestic violence advocate, the hospital must contact the organization and request that one be provided.

It is the hospital's obligation to establish a relationship with their local domestic violence or victim assistance organization. The hospital must be familiar with the organization, and their

services, so that they can provide an appropriate referral to the patient. The hospital must collaborate with their local organization to determine how and when advocacy services can be provided in the hospital, and an alternative option for patients who wish the presence of an advocacy, but one can not be provided.

14. What is considered a 'Domestic Violence Organization' or a 'Victim Assistance Organization'?

Hospitals may choose to partner with a local Domestic Violence Organization or a Victim Assistance Organization. Licensed domestic violence organizations are approved by the New York State Office of Child and Family Services to provide a comprehensive set of residential and non-residential services. A complete list can be found here:

<https://ocfs.ny.gov/programs/domestic-violence/>

However, there are other victim assistance organizations throughout New York State that provide services for domestic violence victims. There is no legal definition or set of requirements for a victim assistance organization. As such, there is no comprehensive list of these programs. If the hospital is aware of an organization in their area that provides domestic violence services, the hospital may choose to partner with them. The hospital may want to consider also partnering with an approved domestic violence organization to ensure that their patients are offered the full range of services, including residential services. To search for other victim assistance organization in your area, also visit the Office of Victim Services:

<https://ovs.ny.concerncenter.com/>

15. What is a hospital Domestic Violence Coordinator? Is this position required?

Every hospital is required to designate a staff member to contact their local domestic violence or victim assistance organization to establish the coordination of services to domestic violence victims. It is recommended that the designee, referred to as the 'Domestic Violence Coordinator', be a staff position and a member of the hospital social work department. The Domestic Violence Coordinator may designate other staff to assist with referrals when they are not available. The domestic violence coordinator and all designees must receive training on domestic violence. It is recommended that this training is provided by their local domestic violence or victim assistance organization and that it goes beyond the training requires for all other hospital staff.

The responsibilities of the domestic violence coordinator may include:

- Develop a schedule with the name and contact information for the designated staff member to assist providers with referrals 24/7.
- Disseminate the schedule to all necessary parts of the hospital.
- Assist in the development of an MOU with the local domestic violence or victim assistance organization.

- Maintain an ongoing relationship with the local domestic violence or victim assistance organization.
- Connect domestic violence patients with an advocate from the local domestic violence or victim assistance organization.
- Assist the provider with any mandatory reporting requirements.
- Assist the provider with any other referrals or safety planning that must be done in the hospital.
- Disseminate a training for all clinical, social work, and security personnel on domestic violence and the hospital's policy.
- Maintain documentation on training requirements.

Domestic Violence Training

1. What training is required on domestic violence and who is required to complete the training?

Every general hospital is required to establish and implement a training program for all nursing, medical, social work and other clinical personnel, and security personnel working in hospital service units regarding their policies and procedures on domestic violence.

2. Is the 'New York State Domestic Violence in Hospitals Training' by the Office for the Prevention of Domestic Violence mandatory?

The 'New York State Domestic Violence in Hospitals Training' by the Office for the Prevention of Domestic Violence is not required in all hospitals. However, this training covers a comprehensive set of topics related to domestic violence in the hospital setting in about 60 minutes. Hospitals are encouraged to utilize this training, in collaboration with a training on the hospitals specific domestic violence policies and procedures, to cover the requirement for training.

If the hospital chooses to develop their own training, they should ensure that the following topics are included:

- Domestic violence and intimate partner violence basics
- Recognizing the 'indicators of abuse'
- NYS laws and regulations on the treatment of domestic violence patients in hospitals
- Utilizing interview techniques to screen patients for domestic violence
- Domestic violence assessment and treatment, including strangulation and photography
- Hospital domestic violence policy and tools
- Community resources and common referrals to support domestic violence victims

3. How often does the training need to be completed?

It is recommended that training be completed upon hire and thereafter, annually for all staff. Completed training must be documented for all staff.