S T A T E O F N E W Y O R K

903

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. GOTTFRIED, AUBRY, DINOWITZ, PAULIN, PEOPLES, BRODSKY, JOHN, MILLMAN, ROBINSON, ESPAILLAT, BOYLAND, ROSENTHAL, KAVANAGH, JAFFEE -- Multi-Sponsored by -- M. of A. ARROYO, BRENNAN, BROOK-KRASNY, CAHILL, CLARK, COOK, CYMBROWITZ, DIAZ, EDDINGTON, FARRELL, GANTT, GLICK, GREENE, HOOPER, JACOBS, KELLNER, LIFTON, V. LOPEZ, MARKEY, MAYERSOHN, McENENY, ORTIZ, PERRY, PHEFFER, POWELL, PRETLOW, J. RIVERA, P. RIVERA, SCARBOROUGH, SEMINERIO, TOWNS, WEISENBERG, WRIGHT -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to department of health review of policies and practices in facilities operated by the department of correctional services, and in local correctional facilities regarding human immunodeficiency virus, acquired immunodeficiency syndrome and hepatitis C

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 206 of the public health law is amended by adding a new subdivision 26 to read as follows:

26. THE COMMISSIONER IS HEREBY AUTHORIZED AND DIRECTED TO REVIEW ANY POLICY OR PRACTICE INSTITUTED IN FACILITIES OPERATED BY THE DEPARTMENT OF CORRECTIONAL SERVICES REGARDING HUMAN IMMUNODEFICIENCY VIRUS (HIV), ACQUIRED IMMUNODEFICIENCY SYNDROME (AIDS), AND HEPATITIS C (HCV) INCLUDING THE PREVENTION OF THE TRANSMISSION OF HIV AND HCV AND THE TREATMENT OF AIDS, HIV AND HCV AMONG INMATES. SUCH REVIEW SHALL BE PERFORMED ANNUALLY AND SHALL FOCUS ON WHETHER SUCH HIV, AIDS OR HCV POLICY OR PRACTICE IS CONSISTENT WITH CURRENT, GENERALLY ACCEPTED MEDICAL STANDARDS AND PROCEDURES USED TO PREVENT THE TRANSMISSION OF HIV AND HCV AND TO TREAT AIDS, HIV AND HCV AMONG THE GENERAL PUBLIC. IN PERFORMING SUCH REVIEWS, IN ORDER TO DETERMINE THE QUALITY AND ADEQUACY OF CARE AND TREATMENT PROVIDED, DEPARTMENT PERSONNEL ARE AUTHORIZED TO ENTER CORRECTIONAL FACILITIES AND INSPECT POLICY AND PROCEDURE MANUALS AND MEDICAL PROTO-

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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COLS, INTERVIEW HEALTH SERVICES PROVIDERS AND INMATE-PATIENTS, REVIEW MEDICAL GRIEVANCES, AND INSPECT A REPRESENTATIVE SAMPLE OF MEDICAL RECORDS OF INMATES KNOWN TO BE INFECTED WITH HIV OR HCV OR HAVE AIDS. PRIOR TO INITIATING A REVIEW OF A CORRECTIONAL SYSTEM, THE COMMISSIONER SHALL INFORM THE PUBLIC, INCLUDING PATIENTS, THEIR FAMILIES AND PATIENT ADVOCATES, OF THE SCHEDULED REVIEW AND INVITE THEM TO PROVIDE THE COMMISSIONER WITH RELEVANT INFORMATION. UPON THE COMPLETION OF SUCH REVIEW, THE DEPARTMENT SHALL, IN WRITING, APPROVE SUCH POLICY OR PRACTICE AS INSTITUTED IN FACILITIES OPERATED BY THE DEPARTMENT OF CORRECTIONAL SERVICES OR, BASED ON SPECIFIC, WRITTEN RECOMMENDATIONS, DIRECT THE DEPARTMENT OF CORRECTIONAL SERVICES TO PREPARE AND IMPLEMENT A CORRECTIVE PLAN TO ADDRESS DEFICIENCIES IN AREAS WHERE SUCH POLICY OR PRACTICE FAILS TO CONFORM TO CURRENT, GENERALLY ACCEPTED MEDICAL STANDARDS AND PROCEDURES. THE COMMISSIONER SHALL MONITOR THE IMPLEMENTATION OF SUCH CORRECTIVE PLANS AND SHALL CONDUCT SUCH FURTHER REVIEWS AS THE COMMISSIONER DEEMS NECESSARY TO ENSURE THAT IDENTIFIED DEFICIENCIES IN HIV, AIDS AND HCV POLICIES AND PRACTICES ARE CORRECTED. ALL WRITTEN REPORTS PERTAINING TO REVIEWS PROVIDED FOR IN THIS SUBDIVISION SHALL BE MAINTAINED, UNDER SUCH CONDITIONS AS THE COMMISSIONER SHALL PRESCRIBE, AS PUBLIC INFORMATION AVAILABLE FOR PUBLIC INSPECTION.

S 2. Subdivision 26 of section 206 of the public health law, as added by section one of this act, is amended to read as follows:

26. The commissioner is hereby authorized and directed to review any policy or practice instituted in facilities operated by the department of correctional services, AND IN ALL LOCAL CORRECTIONAL FACILITIES, AS DEFINED IN SUBDIVISION SIXTEEN OF SECTION TWO OF THE CORRECTION LAW, regarding human immunodeficiency virus (HIV), acquired immunodeficiency syndrome (AIDS), and hepatitis C (HCV) including the prevention of the transmission of HIV and HCV and the treatment of AIDS, HIV and HCV among inmates. Such review shall be performed annually and shall focus on whether such HIV, AIDS or HCV policy or practice is consistent with current, generally accepted medical standards and procedures used to prevent the transmission of HIV and HCV and to treat AIDS, HIV and HCV among the general public. In performing such reviews, in order to determine the quality and adequacy of care and treatment provided, department personnel are authorized to enter correctional facilities and inspect policy and procedure manuals and medical protocols, interview health services providers and inmate-patients, review medical grievances, and inspect a representative sample of medical records of inmates known to be infected with HIV or HCV or have AIDS. Prior to initiating a review of a correctional system, the commissioner shall inform the public, including patients, their families and patient advocates, of the scheduled review and invite them to provide the commissioner with relevant information. Upon the completion of such review, the department shall, in writing, approve such policy or practice as instituted in facilities operated by the department of correctional services, AND IN ANY LOCAL CORRECTIONAL FACILITY, or, based on specific, written recommendations, direct the department of correctional services, OR THE AUTHORITY RESPONSIBLE FOR THE PROVISION OF MEDICAL CARE TO INMATES IN LOCAL CORRECTIONAL FACILITIES to prepare and implement a corrective plan to address deficiencies in areas where such policy or practice fails to conform to current, generally accepted medical standards and procedures. The commissioner shall monitor the implementation of such corrective plans and shall conduct such further reviews as the commissioner deems necessary to ensure that identified deficiencies in HIV, AIDS and HCV policies and practices are corrected. All written reports pertaining to

reviews provided for in this subdivision shall be maintained, under such conditions as the commissioner shall prescribe, as public information available for public inspection.

S 3. This act shall take effect immediately; provided, however that the amendments to subdivision 26 of section 206 of the public health law made by section two of this act shall take effect two years after this act shall have become a law.