

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:

1     Section 1. Section 206 of the public health law is amended by adding a  
2     new subdivision 26 to read as follows:  
3     26. THE COMMISSIONER IS HEREBY AUTHORIZED AND DIRECTED TO REVIEW ANY  
4     POLICY OR PRACTICE INSTITUTED IN FACILITIES OPERATED BY THE DEPARTMENT  
5     OF CORRECTIONAL SERVICES REGARDING HUMAN IMMUNODEFICIENCY VIRUS (HIV),  
6     ACQUIRED IMMUNODEFICIENCY SYNDROME (AIDS), AND HEPATITIS C (HCV) INCLUD-  
7     ING THE PREVENTION OF THE TRANSMISSION OF HIV AND HCV AND THE TREATMENT  
8     OF AIDS, HIV AND HCV AMONG INMATES. SUCH REVIEW SHALL BE PERFORMED ANNU-  
9     ALLY AND SHALL FOCUS ON WHETHER SUCH HIV, AIDS OR HCV POLICY OR PRACTICE  
10    IS CONSISTENT WITH CURRENT, GENERALLY ACCEPTED MEDICAL STANDARDS AND  
11    PROCEDURES USED TO PREVENT THE TRANSMISSION OF HIV AND HCV AND TO TREAT  
12    AIDS, HIV AND HCV AMONG THE GENERAL PUBLIC. IN PERFORMING SUCH REVIEWS,  
13    IN ORDER TO DETERMINE THE QUALITY AND ADEQUACY OF CARE AND TREATMENT  
14    PROVIDED, DEPARTMENT PERSONNEL ARE AUTHORIZED TO ENTER CORRECTIONAL  
15    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.

LBD00355-01-9

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

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

23 26. The commissioner is hereby authorized and directed to review any  
24 policy or practice instituted in facilities operated by the department  
25 of correctional services, AND IN ALL LOCAL CORRECTIONAL FACILITIES, AS  
26 DEFINED IN SUBDIVISION SIXTEEN OF SECTION TWO OF THE CORRECTION LAW,  
27 regarding human immunodeficiency virus (HIV), acquired immunodeficiency  
28 syndrome (AIDS), and hepatitis C (HCV) including the prevention of the  
29 transmission of HIV and HCV and the treatment of AIDS, HIV and HCV among  
30 inmates. Such review shall be performed annually and shall focus on  
31 whether such HIV, AIDS or HCV policy or practice is consistent with  
32 current, generally accepted medical standards and procedures used to  
33 prevent the transmission of HIV and HCV and to treat AIDS, HIV and HCV  
34 among the general public. In performing such reviews, in order to deter-  
35 mine the quality and adequacy of care and treatment provided, department  
36 personnel are authorized to enter correctional facilities and inspect  
37 policy and procedure manuals and medical protocols, interview health  
38 services providers and inmate-patients, review medical grievances, and  
39 inspect a representative sample of medical records of inmates known to  
40 be infected with HIV or HCV or have AIDS. Prior to initiating a review  
41 of a correctional system, the commissioner shall inform the public,  
42 including patients, their families and patient advocates, of the sched-  
43 uled review and invite them to provide the commissioner with relevant  
44 information. Upon the completion of such review, the department shall,  
45 in writing, approve such policy or practice as instituted in facilities  
46 operated by the department of correctional services, AND IN ANY LOCAL  
47 CORRECTIONAL FACILITY, or, based on specific, written recommendations,  
48 direct the department of correctional services, OR THE AUTHORITY RESPON-  
49 SIBLE FOR THE PROVISION OF MEDICAL CARE TO INMATES IN LOCAL CORRECTIONAL  
50 FACILITIES to prepare and implement a corrective plan to address defi-  
51 ciencies in areas where such policy or practice fails to conform to  
52 current, generally accepted medical standards and procedures. The  
53 commissioner shall monitor the implementation of such corrective plans  
54 and shall conduct such further reviews as the commissioner deems neces-  
55 sary to ensure that identified deficiencies in HIV, AIDS and HCV poli-  
56 cies and practices are corrected. All written reports pertaining to

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

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