

3842

2009-2010 Regular Sessions

I N S E N A T E

April 2, 2009

Introduced by Sen. DUANE -- read twice and ordered printed, and when printed to be committed 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-
16 COLS, INTERVIEW HEALTH SERVICES PROVIDERS AND INMATE-PATIENTS, REVIEW
17 MEDICAL GRIEVANCES, AND INSPECT A REPRESENTATIVE SAMPLE OF MEDICAL
18 RECORDS OF INMATES KNOWN TO BE INFECTED WITH HIV OR HCV OR HAVE AIDS.
19 PRIOR TO INITIATING A REVIEW OF A CORRECTIONAL SYSTEM, THE COMMISSIONER
20 SHALL INFORM THE PUBLIC, INCLUDING PATIENTS, THEIR FAMILIES AND PATIENT
21 ADVOCATES, OF THE SCHEDULED REVIEW AND INVITE THEM TO PROVIDE THE
22 COMMISSIONER WITH RELEVANT INFORMATION. UPON THE COMPLETION OF SUCH

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

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1 REVIEW, THE DEPARTMENT SHALL, IN WRITING, APPROVE SUCH POLICY OR PRAC-
2 TICE AS INSTITUTED IN FACILITIES OPERATED BY THE DEPARTMENT OF CORREC-
3 TIONAL SERVICES OR, BASED ON SPECIFIC, WRITTEN RECOMMENDATIONS, DIRECT
4 THE DEPARTMENT OF CORRECTIONAL SERVICES TO PREPARE AND IMPLEMENT A
5 CORRECTIVE PLAN TO ADDRESS DEFICIENCIES IN AREAS WHERE SUCH POLICY OR
6 PRACTICE FAILS TO CONFORM TO CURRENT, GENERALLY ACCEPTED MEDICAL STAND-
7 ARDS AND PROCEDURES. THE COMMISSIONER SHALL MONITOR THE IMPLEMENTATION
8 OF SUCH CORRECTIVE PLANS AND SHALL CONDUCT SUCH FURTHER REVIEWS AS THE
9 COMMISSIONER DEEMS NECESSARY TO ENSURE THAT IDENTIFIED DEFICIENCIES IN
10 HIV, AIDS AND HCV POLICIES AND PRACTICES ARE CORRECTED. ALL WRITTEN
11 REPORTS PERTAINING TO REVIEWS PROVIDED FOR IN THIS SUBDIVISION SHALL BE
12 MAINTAINED, UNDER SUCH CONDITIONS AS THE COMMISSIONER SHALL PRESCRIBE,
13 AS PUBLIC INFORMATION AVAILABLE FOR PUBLIC INSPECTION.

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

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

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