

# STATE OF NEW YORK

9675

## IN ASSEMBLY

January 31, 2018

Introduced by M. of A. GOTTFRIED, WEPRIN, ORTIZ, SIMON, DICKENS, SEPULVEDA, McDONALD, ARROYO, JAFFEE, D'URSO, DE LA ROSA, ABINANTI, LAVINE, ERRIGO, PEOPLES-STOKES, MOSLEY, AUBRY, PELLEGRINO, WRIGHT -- Multi-Sponsored by -- M. of A. CROUCH -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to health facilities and services in correctional facilities

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 1 of section 2801 of the public health law, as  
2 amended by chapter 397 of the laws of 2016, is amended to read as  
3 follows:

4 1. "Hospital" means a facility or institution engaged principally in  
5 providing services by or under the supervision of a physician or, in the  
6 case of a dental clinic or dental dispensary, of a dentist, or, in the  
7 case of a midwifery birth center, of a midwife, for the prevention,  
8 diagnosis or treatment of human disease, pain, injury, deformity or  
9 physical condition, including, but not limited to, a general hospital,  
10 public health center, diagnostic center, treatment center, dental clinic,  
11 dental dispensary, rehabilitation center other than a facility used  
12 solely for vocational rehabilitation, nursing home, tuberculosis hospital,  
13 chronic disease hospital, maternity hospital, midwifery birth  
14 center, lying-in-asylum, out-patient department, out-patient lodge,  
15 dispensary, correctional health care facility and a laboratory or  
16 central service facility serving one or more such institutions, but the  
17 term hospital shall not include an institution, sanitarium or other  
18 facility engaged principally in providing services for the prevention,  
19 diagnosis or treatment of mental disability and which is subject to the  
20 powers of visitation, examination, inspection and investigation of the  
21 department of mental hygiene except for those distinct parts of such a  
22 facility which provide hospital service. The provisions of this article  
23 shall not apply to a facility or institution engaged principally in  
24 providing services by or under the supervision of the bona fide members  
25 and adherents of a recognized religious organization whose teachings

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

LBD14259-01-8

1 include reliance on spiritual means through prayer alone for healing in  
2 the practice of the religion of such organization and where services are  
3 provided in accordance with those teachings.

4 § 2. Section 2801 of the public health law is amended by adding a new  
5 subdivision 12 to read as follows:

6 12. "Correctional health care facility" means a facility or part of a  
7 facility providing health care services to persons confined in a correc-  
8 tional facility or local correctional facility, that is operated by,  
9 operated under contract with or supervised by the department of  
10 corrections and community supervision, by a county or the city of New  
11 York or by a correctional facility or local correctional facility. As  
12 used in this subdivision, "correctional facility" and "local correction-  
13 al facility" shall have the same meaning as in section two of the  
14 correction law, except that the exclusion of certain facilities under  
15 paragraph (b) of subdivision four of that section shall not apply.

16 § 3. Section 2803 of the public health law is amended by adding a new  
17 subdivision 12 to read as follows:

18 12. (a) The commissioner, in consultation with the commissioner of  
19 corrections and community supervision, representatives of local correc-  
20 tional facilities, the commissioner of mental health and the commission-  
21 er of alcoholism and substance abuse services, shall make regulations  
22 relating to correctional health care facilities, including, but not  
23 limited to, their establishment, construction, and operation, consider-  
24 ing the standards of state and national organizations knowledgeable in  
25 correctional health care services.

26 (b) A correctional health care facility in operation on the effective  
27 date of this subdivision may continue to operate for two years after  
28 such date regardless of whether it is has been established under this  
29 section.

30 § 4. Subdivision 26 of section 206 of the public health law, as  
31 amended by section 127-t of subpart B of part C of chapter 62 of the  
32 laws of 2011, is amended to read as follows:

33 26. The commissioner is hereby authorized and directed to review any  
34 policy or practice instituted in facilities operated by the department  
35 of corrections and community supervision, and in all local correctional  
36 facilities, as defined in subdivision sixteen of section two of the  
37 correction law, regarding [~~human immunodeficiency virus (HIV), acquired~~  
38 ~~immunodeficiency syndrome (AIDS), and hepatitis C (HCV)] health care  
39 services provided to persons confined in the facility, including the  
40 prevention of [~~the transmission~~] infection or disease [of HIV and HCV  
41 and the treatment of AIDS, HIV and HCV among inmates]. Such review shall  
42 be performed annually and shall focus on whether such [~~HIV, AIDS or HCV~~  
43 policy or practice is consistent with current, generally accepted  
44 medical standards and procedures used [~~to prevent the transmission of~~  
45 ~~HIV and HCV and to treat AIDS, HIV and HCV among]~~ in relation to the  
46 general public. In performing such reviews, in order to determine the  
47 quality and adequacy of care and treatment provided, department person-  
48 nel are authorized to enter correctional facilities and inspect policy  
49 and procedure manuals and medical protocols, interview health services  
50 providers and inmate-patients, review medical grievances, and inspect a  
51 representative sample of medical records of inmates [~~known to be~~  
52 ~~infected with HIV or HCV or have AIDS]~~. Prior to initiating a review of  
53 a correctional system, the commissioner shall inform the public, includ-  
54 ing patients, their families and patient advocates, of the scheduled  
55 review and invite them to provide the commissioner with relevant infor-  
56 mation. Upon the completion of such review, the department shall, in~~

1 writing, approve such policy or practice as instituted in facilities  
2 operated by the department of corrections and community supervision, and  
3 in any local correctional facility, or, based on specific, written  
4 recommendations, direct the department of corrections and community  
5 supervision, or the authority responsible for the provision of medical  
6 care to inmates in local correctional facilities to prepare and imple-  
7 ment a corrective plan to address deficiencies in areas where such poli-  
8 cy or practice fails to conform to current, generally accepted medical  
9 standards and procedures. The commissioner shall monitor the implemen-  
10 tation of such corrective plans and shall conduct such further reviews  
11 as the commissioner deems necessary to ensure that identified deficien-  
12 cies in [~~HIV, AIDS and HCV~~] policies and practices are corrected. All  
13 written reports pertaining to reviews provided for in this subdivision  
14 shall be maintained, under such conditions as the commissioner shall  
15 prescribe, as public information [~~available for public inspection~~] and  
16 shall be posted on the department's website in searchable and downloada-  
17 ble form; provided that patient individual identifying information shall  
18 be kept confidential by the commissioner. This subdivision shall not  
19 diminish any other authority or jurisdiction of the commissioner.

20 § 5. This act shall take effect one year after it shall have become a  
21 law; provided that, effective immediately, the commissioners of health,  
22 corrections and community supervision, mental health, and alcoholism and  
23 substance abuse services shall promulgate rules and regulations and take  
24 other actions reasonably necessary prior to such effective date neces-  
25 sary to implement the provisions of this act.