STATE OF NEW YORK

1127

2019-2020 Regular Sessions

IN ASSEMBLY

January 14, 2019

Introduced by M. of A. GOTTFRIED, WEPRIN, ORTIZ, SIMON, DICKENS, ARROYO, JAFFEE, D'URSO, DE LA ROSA, ABINANTI, LAVINE, PEOPLES-STOKES, MOSLEY, AUBRY, WRIGHT, PICHARDO, STECK, COOK, WALLACE, WILLIAMS, DAVILA, BICHOTTE, TAYLOR, NIOU, MONTESANO, BARRON, McDONOUGH -- Multi-Sponsored by -- M. of A. CRESPO, 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:

Section 1. Subdivision 1 of section 2801 of the public health law, as amended by section 1 of subpart B of part S of chapter 57 of the laws of 2018, is amended to read as follows:

1. "Hospital" means a facility or institution engaged principally in providing services by or under the supervision of a physician or, in the case of a dental clinic or dental dispensary, of a dentist, or, in the case of a midwifery birth center, of a midwife, for the prevention, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, including, but not limited to, a general hospital, public health center, diagnostic center, treatment center, dental clinic, dental dispensary, rehabilitation center other than a facility used solely for vocational rehabilitation, nursing home, tuberculosis hospital, chronic disease hospital, maternity hospital, midwifery birth center, lying-in-asylum, out-patient department, out-patient lodge, dispensary**, correctional health care facility** and a laboratory or central service facility serving one or more such institutions, but the term hospital shall not include an institution, sanitarium or other facility engaged principally in providing services for the prevention, diagnosis or treatment of mental disability and which is subject to the powers of visitation, examination, inspection and investigation of the department of mental hygiene except for those distinct parts of such a

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

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facility which provide hospital service. The provisions of this article shall not apply to a facility or institution engaged principally in providing services by or under the supervision of the bona fide members and adherents of a recognized religious organization whose teachings include reliance on spiritual means through prayer alone for healing in the practice of the religion of such organization and where services are provided in accordance with those teachings. No provision of this article or any other provision of law shall be construed to: (a) limit the volume of mental health or substance use disorder services that can be provided by a provider of primary care services licensed under this article and authorized to provide integrated services in accordance with regulations issued by the commissioner in consultation with the commissioner of the office of mental health and the commissioner of the office of alcoholism and substance abuse services, including regulations issued pursuant to subdivision seven of section three hundred sixty-five-l of the social services law or part L of chapter fifty-six of the laws of two thousand twelve; (b) require a provider licensed pursuant to article thirty-one of the mental hygiene law or certified pursuant to article thirty-two of the mental hygiene law to obtain an operating certificate from the department if such provider has been authorized to provide integrated services in accordance with regulations issued by the commissioner in consultation with the commissioner of the office of mental health and the commissioner of the office of alcoholism and substance abuse services, including regulations issued pursuant to subdivision seven of section three hundred sixty-five-l of the social services law or part L of chapter fifty-six of the laws of two thousand twelve.

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

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

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

12. (a) The commissioner, in consultation with the commissioner of corrections and community supervision, representatives of local correctional facilities, the commissioner of mental health and the commissioner of alcoholism and substance abuse services, shall make regulations relating to correctional health care facilities, including, but not limited to, their establishment, construction, and operation, considering the standards of state and national organizations knowledgeable in correctional health care services.

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

§ 4. Subdivision 26 of section 206 of the public health law, as amended by section 127-t of subpart B of part C of chapter 62 of the laws of 2011, 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 corrections and community supervision, 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)~~] **health care services provided to persons confined in the facility,** including the prevention of [~~the transmission~~] **infection or disease** [~~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~~] **in relation to** 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 corrections and community supervision, and in any local correctional facility, or, based on specific, written recommendations, direct the department of corrections and community supervision, 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~~] **and shall be posted on the department's website in searchable and downloadable form; provided that patient individual identifying information shall be kept confidential by the commissioner. This subdivision shall not diminish any other authority or jurisdiction of the commissioner**.

§ 5. This act shall take effect one year after it shall have become a law. Effective immediately, the commissioners of health, corrections and community supervision, mental health, and alcoholism and substance abuse services shall promulgate rules and regulations and take other actions reasonably necessary prior to such effective date necessary to implement the provisions of this act.