

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:

1 Section 1. Subdivision 1 of section 2801 of the public health law, as
2 amended by section 1 of subpart B of part S of chapter 57 of the laws of
3 2018, is amended to read as 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 clin-
11 ic, dental dispensary, rehabilitation center other than a facility used
12 solely for vocational rehabilitation, nursing home, tuberculosis hospi-
13 tal, 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

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

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1 facility which provide hospital service. The provisions of this article
2 shall not apply to a facility or institution engaged principally in
3 providing services by or under the supervision of the bona fide members
4 and adherents of a recognized religious organization whose teachings
5 include reliance on spiritual means through prayer alone for healing in
6 the practice of the religion of such organization and where services are
7 provided in accordance with those teachings. No provision of this arti-
8 cle or any other provision of law shall be construed to: (a) limit the
9 volume of mental health or substance use disorder services that can be
10 provided by a provider of primary care services licensed under this
11 article and authorized to provide integrated services in accordance with
12 regulations issued by the commissioner in consultation with the commis-
13 sioner of the office of mental health and the commissioner of the office
14 of alcoholism and substance abuse services, including regulations issued
15 pursuant to subdivision seven of section three hundred sixty-five-1 of
16 the social services law or part L of chapter fifty-six of the laws of
17 two thousand twelve; (b) require a provider licensed pursuant to article
18 thirty-one of the mental hygiene law or certified pursuant to article
19 thirty-two of the mental hygiene law to obtain an operating certificate
20 from the department if such provider has been authorized to provide
21 integrated services in accordance with regulations issued by the commis-
22 sioner in consultation with the commissioner of the office of mental
23 health and the commissioner of the office of alcoholism and substance
24 abuse services, including regulations issued pursuant to subdivision
25 seven of section three hundred sixty-five-1 of the social services law
26 or part L of chapter fifty-six of the laws of two thousand twelve.

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

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

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

41 12. (a) The commissioner, in consultation with the commissioner of
42 corrections and community supervision, representatives of local correc-
43 tional facilities, the commissioner of mental health and the commis-
44 sioner of alcoholism and substance abuse services, shall make regulations
45 relating to correctional health care facilities, including, but not
46 limited to, their establishment, construction, and operation, consider-
47 ing the standards of state and national organizations knowledgeable in
48 correctional health care services.

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

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

1 26. The commissioner is hereby authorized and directed to review any
2 policy or practice instituted in facilities operated by the department
3 of corrections and community supervision, and in all local correctional
4 facilities, as defined in subdivision sixteen of section two of the
5 correction law, regarding [~~human immunodeficiency virus (HIV), acquired~~
6 ~~immunodeficiency syndrome (AIDS), and hepatitis C (HCV)~~] health care
7 services provided to persons confined in the facility, including the
8 prevention of [~~the transmission~~] infection or disease [~~of HIV and HCV~~
9 ~~and the treatment of AIDS, HIV and HCV among inmates~~]. Such review shall
10 be performed annually and shall focus on whether such [~~HIV, AIDS or HCV~~]
11 policy or practice is consistent with current, generally accepted
12 medical standards and procedures used [~~to prevent the transmission of~~
13 ~~HIV and HCV and to treat AIDS, HIV and HCV among~~] in relation to the
14 general public. In performing such reviews, in order to determine the
15 quality and adequacy of care and treatment provided, department person-
16 nel are authorized to enter correctional facilities and inspect policy
17 and procedure manuals and medical protocols, interview health services
18 providers and inmate-patients, review medical grievances, and inspect a
19 representative sample of medical records of inmates [~~known to be~~
20 ~~infected with HIV or HCV or have AIDS~~]. Prior to initiating a review of
21 a correctional system, the commissioner shall inform the public, includ-
22 ing patients, their families and patient advocates, of the scheduled
23 review and invite them to provide the commissioner with relevant infor-
24 mation. Upon the completion of such review, the department shall, in
25 writing, approve such policy or practice as instituted in facilities
26 operated by the department of corrections and community supervision, and
27 in any local correctional facility, or, based on specific, written
28 recommendations, direct the department of corrections and community
29 supervision, or the authority responsible for the provision of medical
30 care to inmates in local correctional facilities to prepare and imple-
31 ment a corrective plan to address deficiencies in areas where such poli-
32 cy or practice fails to conform to current, generally accepted medical
33 standards and procedures. The commissioner shall monitor the implemen-
34 tation of such corrective plans and shall conduct such further reviews
35 as the commissioner deems necessary to ensure that identified deficien-
36 cies in [~~HIV, AIDS and HCV~~] policies and practices are corrected. All
37 written reports pertaining to reviews provided for in this subdivision
38 shall be maintained, under such conditions as the commissioner shall
39 prescribe, as public information [~~available for public inspection~~] and
40 shall be posted on the department's website in searchable and downloada-
41 ble form; provided that patient individual identifying information shall
42 be kept confidential by the commissioner. This subdivision shall not
43 diminish any other authority or jurisdiction of the commissioner.

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