

STATE OF NEW YORK

7145

2025-2026 Regular Sessions

IN SENATE

April 2, 2025

Introduced by Sens. HOYLMAN-SIGAL, BROUK, COMRIE, KAVANAGH, KRUEGER, RIVERA, SALAZAR, SEPULVEDA -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, the education law and the labor law, in relation to prohibiting participation in torture and improper treatment of incarcerated individuals by health care professionals

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

1 Section 1. Legislative policy and intent. This legislation is based
2 on, and is intended to give effect to, international treaties and stand-
3 ards; federal, state and local law; and professional standards relating
4 to torture, improper treatment of incarcerated individuals, and related
5 matters. It is guided by two basic principles: (1) health care profes-
6 sionals shall be dedicated to providing the highest standard of health
7 care, with compassion and respect for human dignity and rights; and (2)
8 torture and improper treatment of incarcerated individuals are wrong and
9 inconsistent with the practice of the health care professions. The
10 legislature finds that the conduct prohibited by this act violates the
11 ethical and legal obligations of licensed health care professionals.
12 This legislation will further protect the professionalism of New York
13 state licensed health care professionals by authorizing and obligating
14 them to refuse to participate in torture and improper treatment of
15 incarcerated individuals, which in turn will protect the life and health
16 of the people of the state and those with whom New York licensed health
17 care professionals interact. A health care professional who comes to
18 the aid of an incarcerated individual should not be presumed to be in
19 violation when they are fulfilling the ethical principle of beneficence.
20 In contrast, a health care professional who, for example, attends to an
21 incarcerated individual in order to allow torture or improper treatment
22 to commence or continue is not acting beneficently. Such practices are
23 inconsistent with professional ethics and standards and are violations

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

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1 of this legislation. The legislature is mindful that ordinarily there
2 are limits on New York state's jurisdiction relating to conduct outside
3 the state or under federal authority. However, it is proper for the
4 state to regulate health care professional licensure in relation to a
5 professional's conduct, even where the conduct occurs outside the state;
6 certain wrongful out-of-state conduct is already grounds for profes-
7 sional discipline. Therefore, it is the legislature's intent that this
8 legislation be applied to the fullest extent possible.

9 § 2. The public health law is amended by adding a new section 25 to
10 read as follows:

11 § 25. Participation in torture or improper treatment of incarcerated
12 individuals by health care professionals. 1. Definitions. As used in
13 this section, unless the context clearly requires otherwise, the follow-
14 ing terms have the following meanings:

15 (a) "Health care professional" means any person licensed, registered,
16 certified, or exempt to practice under (i) any of the following articles
17 of the education law: one hundred thirty-one (medicine), one hundred
18 thirty-one-B (physician assistants), one hundred thirty-one-C (special-
19 ist assistants), one hundred thirty-two (chiropractic), one hundred
20 thirty-three (dentistry, dental hygiene, and registered dental assist-
21 ing), one hundred thirty-six (physical therapy and physical therapist
22 assistants), one hundred thirty-seven (pharmacy), one hundred thirty-
23 nine (nursing), one hundred forty (professional midwifery practice act),
24 one hundred forty-one (podiatry), one hundred forty-three (optometry),
25 one hundred forty-four (ophthalmic dispensing), one hundred fifty-three
26 (psychology), one hundred fifty-four (social work), one hundred fifty-
27 five (massage therapy), one hundred fifty-six (occupational therapy),
28 one hundred fifty-seven (dietetics and nutrition), one hundred fifty-
29 nine (speech-language pathologists and audiologists), one hundred sixty
30 (acupuncture), one hundred sixty-three (mental health practitioners),
31 one hundred sixty-four (respiratory therapists and respiratory therapy
32 technicians), one hundred sixty-five (clinical laboratory technology
33 practice act), or one hundred sixty-six (medical physics practice), or
34 (ii) article thirty-five of this chapter (practice of radiologic tech-
35 nology).

36 (b) "Torture" means any intentional act or intentional omission by
37 which severe pain or suffering, whether physical or mental, is inflicted
38 on a person for no lawful purpose or for such purposes as obtaining from
39 the person or from a third person information or a confession, punishing
40 or disciplining or retaliating against the person for an act the person
41 or a third person has carried out (including the holding of a belief or
42 membership in any group) or is suspected of having or perceived to have
43 carried out, or intimidating or coercing the person or a third person,
44 or for any reason based on discrimination of any kind. For the purposes
45 of this section, it shall not be an element of torture that such acts be
46 committed by a government or non-government actor, entity, or official;
47 under color of law; or not under color of law.

48 (c) "Improper treatment" includes any cruel, inhuman or degrading
49 treatment or punishment as those terms are defined in and applied by
50 applicable international treaties including but not limited to the
51 Convention Against Torture, and Other Cruel, Inhumane, or Degrading
52 Treatment or Punishment, the International Covenant on Civil and Poli-
53 tical Rights, the United Nations Standard Minimum Rules for Treatment of
54 Prisoners, the Body of Principles for the Protection of All Persons
55 Under Any Form of Detention or Imprisonment, the Basic Principles for
56 the Treatment of Prisoners and, the United Nations Standard Minimum

1 Rules for the Administration of Juvenile Justice and their corresponding
2 interpreting bodies. Improper treatment also includes any cruel and
3 unusual punishment as defined in the United States Constitution or the
4 New York state constitution. Improper treatment also includes any
5 violation of subdivision three or four of this section, any form of
6 physical brutality, improper use of force, deprivation of food, water,
7 basic hygiene materials and access, or other basic human needs or living
8 conditions, or any violation of applicable New York state law governing
9 the proper treatment of incarcerated individuals. For the purposes of
10 this section, it shall not be an element of improper treatment that such
11 acts be committed by a government actor, entity, or official or by a
12 non-government actor, entity, or official; or that such acts be commit-
13 ted under color of law or not under color of law. The commissioner shall
14 provide guidance to health care professionals regarding acts or omis-
15 sions that constitute improper treatment under this section and post the
16 guidance on the department's website.

17 (d) "Incarcerated individual" means any person who is subject to
18 punishment, detention, incarceration, interrogation, intimidation or
19 coercion, regardless of whether such action is performed or committed by
20 a government or non-government actor, entity, or official; under color
21 of law; or not under color of law.

22 (e) To "adversely affect" a person's physical or mental health or
23 condition does not include causing adverse effects that may arise from
24 treatment or care when that treatment or care is performed in accordance
25 with generally applicable legal, health and professional standards and
26 for the purposes of evaluating, treating, protecting or improving the
27 person's health.

28 (f) "Interrogation" means the questioning related to law enforcement,
29 the enforcement of rules or regulations of an institution in which
30 people are detained through the criminal justice system or for military
31 or national security reasons (such as a jail or other detention facili-
32 ty, police facility, prison, immigration facility, or military facility)
33 or to military and national security intelligence gathering, whether by
34 a government or non-government actor, entity or official. "Interro-
35 gation" shall also include questioning to aid or accomplish any illegal
36 activity or purpose, whether by a government or non-government actor,
37 entity or official. Interrogations are distinct from questioning used by
38 health care professionals to assess the physical or mental condition of
39 an individual.

40 2. Knowledge. A health care professional who receives information
41 that indicates that an incarcerated individual as defined by this
42 section is being, may in the future be, or has been subjected to torture
43 or improper treatment, must use due diligence in fulfilling all of their
44 responsibilities under this section.

45 3. General obligations of health care professionals. (a) Every health
46 care professional shall provide every incarcerated individual under
47 their professional care with care or treatment consistent with generally
48 applicable legal, health and professional standards to the extent that
49 they are reasonably able to do so under the circumstances, including
50 protecting the confidentiality of patient information.

51 (b) In all clinical assessments relating to an incarcerated individ-
52 ual, whether for therapeutic or evaluative purposes, health care profes-
53 sionals shall exercise their professional judgment independent of the
54 interests of a government or other third party.

55 4. Certain conduct of health care professionals prohibited. (a) No
56 health care professional shall knowingly, recklessly, or negligently

1 apply their knowledge or skills in relation to, engage in any profes-
2 sional relationship with, or perform professional services in relation
3 to any incarcerated individual unless the purpose is solely to evaluate,
4 treat, protect, or improve the physical or mental health or condition of
5 the incarcerated individual (except as permitted by paragraph (b) or (c)
6 of subdivision five of this section).

7 (b) No health care professional shall knowingly, recklessly, or negli-
8 gently engage, directly or indirectly, in any act which constitutes
9 torture or improper treatment of an incarcerated individual, which may
10 include participation in, complicity in, incitement to, assistance in,
11 planning or design of, cover up of, failure to document, or attempt or
12 conspiracy to commit such torture or improper treatment. Prohibited
13 forms of engagement include but are not limited to:

14 (i) knowingly, recklessly, or negligently providing means, knowledge
15 or skills, including clinical findings or treatment, with the intent to
16 facilitate the practice of torture or improper treatment;

17 (ii) knowingly, recklessly, or negligently permitting their knowledge,
18 skills or clinical findings or treatment to be used in the process of or
19 to facilitate torture or improper treatment;

20 (iii) knowingly, recklessly, or negligently examining, evaluating, or
21 treating an incarcerated individual to certify whether torture or
22 improper treatment can begin, be continued, or be resumed;

23 (iv) being present while torture or improper treatment is being admin-
24 istered;

25 (v) omitting or suppressing indications of torture or improper treat-
26 ment from records or reports; and

27 (vi) altering health care records or reports to hide, misrepresent or
28 destroy evidence of torture or improper treatment.

29 (c) No health care professional shall knowingly, recklessly, or negli-
30 gently apply their knowledge or skills or perform any professional
31 service in order to assist in the punishment, detention, incarceration,
32 intimidation, or coercion of an incarcerated individual when such
33 assistance is provided in a manner that may adversely affect the phys-
34 ical or mental health or condition of the incarcerated individual
35 (except as permitted by paragraph (a) or (b) of subdivision five of this
36 section).

37 (d) No health care professional shall participate in the interrogation
38 of an incarcerated individual, including being present in the interro-
39 gation room, asking or suggesting questions, advising on the use of
40 specific interrogation techniques, monitoring the interrogation, or
41 medically or psychologically evaluating a person for the purpose of
42 identifying potential interrogation methods or strategies. However, this
43 paragraph shall not bar a health care professional from being present
44 for the interrogation of a minor under paragraph (a) of subdivision five
45 of this section or engaging in conduct under paragraph (d) of subdivi-
46 sion five of this section.

47 5. Certain conduct of health care professionals permitted. A health
48 care professional may engage in the following conduct so long as it does
49 not violate subdivision three or four of this section, it does not
50 adversely affect the physical or mental health or condition of an incar-
51 cerated individual or potential subject, and is not otherwise unlawful:

52 (a) appropriately participating or aiding in the investigation, prose-
53 cution, or defense of a criminal, administrative or civil matter,
54 including presence during the interrogation of a minor at the request of
55 the minor or the minor's parent or guardian and for the purpose of
56 supporting the health of the minor;

1 (b) participating in an act that restrains an incarcerated individual
2 or temporarily alters the physical or mental activity of an incarcerated
3 individual, where the act complies with generally applicable legal,
4 health and professional standards, is necessary for the protection of
5 the physical or mental health, condition or safety of the incarcerated
6 individual, other incarcerated individuals, or persons caring for,
7 guarding or confining the incarcerated individual;

8 (c) conducting bona fide human subject research in accordance with
9 generally accepted legal, health and professional standards where the
10 research includes safeguards for human subjects equivalent to those
11 required by federal law, including informed consent and institutional
12 review board approval where applicable;

13 (d) training related to the following purposes, so long as it is not
14 provided in support of specific ongoing or anticipated interrogations:

15 (i) recognizing and responding to persons with physical or mental
16 illness or conditions,

17 (ii) the possible physical and mental effects of particular techniques
18 and conditions of interrogation, or

19 (iii) the development of effective interrogation strategies not
20 involving the practice of torture or improper treatment.

21 6. Duty to report. A health care professional who has reasonable
22 grounds (not based solely on publicly available information) to believe
23 that torture, improper treatment or other conduct in violation of this
24 section has occurred, is occurring, or will occur shall, as soon as is
25 possible without jeopardizing the physical safety of such professional,
26 the incarcerated individual, or other parties, report such conduct to:

27 (a) a government agency that the health care professional reasonably
28 believes has legal authority to punish or prevent the continuation of
29 torture or the improper treatment of an incarcerated individual or
30 conduct in violation of this section and is reasonably likely to attempt
31 to do so; or

32 (b) a governmental or non-governmental entity that the health care
33 professional reasonably believes will notify such a government agency of
34 the torture or the improper treatment of an incarcerated individual or
35 conduct in violation of this section or take other action to publicize
36 or prevent such torture, treatment or conduct; and

37 (c) in addition to reporting under paragraph (a) or (b) of this subdivi-
38 vision: (i) in the case of an alleged violation by a health care profes-
39 sional licensed under article one hundred thirty-one, one hundred thir-
40 ty-one-B or one hundred thirty-one-C of the education law, a report
41 shall be filed with the office of professional medical conduct; and (ii)
42 in the case of an alleged violation by any other health care profes-
43 sional licensed, registered or certified under title eight of the educa-
44 tion law, a report shall be filed with the office of professional disci-
45 pline; provided that for the purpose of this paragraph, where a person
46 holds a license, registration or certification under the laws of a
47 jurisdiction other than the state of New York that is for a profession
48 substantially comparable to one listed in paragraph (a) of subdivision
49 one of this section, the person shall be deemed to be a health care
50 professional and the person's license, registration or certification
51 shall be deemed to be under the appropriate article of title eight of
52 the education law.

53 7. Mitigation. The following may be considered in full or partial
54 mitigation of a violation of this section by the health care profes-
55 sional:

56 (a) compliance with subdivision six of this section; or

1 (b) cooperation in good faith with an investigation of a violation of
2 this section.

3 8. Applicability. This section shall apply to conduct taking place
4 within or outside New York state, and without regard to whether the
5 conduct is committed by a governmental or non-governmental entity, offi-
6 cial, or actor or under actual or asserted color of law.

7 9. Scope of practice not expanded. This section shall not be construed
8 to expand the lawful scope of practice of any health care professional.

9 § 3. Section 6509 of the education law is amended by adding a new
10 subdivision 15 to read as follows:

11 (15) Any violation of section twenty-five of the public health law
12 (relating to participation in torture or improper treatment of incarcer-
13 ated individuals by health care professionals), subject to mitigation
14 under that section.

15 § 4. Section 6530 of the education law is amended by adding a new
16 subdivision 51 to read as follows:

17 51. Any violation of section twenty-five of the public health law
18 (relating to participation in torture or improper treatment of incarcer-
19 ated individuals by health care professionals), subject to mitigation
20 under that section.

21 § 5. Paragraphs (b) and (c) of subdivision 2 of section 740 of the
22 labor law, as amended by chapter 522 of the laws of 2021, are amended
23 and a new paragraph (d) is added to read as follows:

24 (b) provides information to, or testifies before, any public body
25 conducting an investigation, hearing or inquiry into any such activity,
26 policy or practice by such employer; ~~[ex]~~

27 (c) objects to, or refuses to participate in any such activity, policy
28 or practice~~[-]~~; or

29 (d) reports or threatens to report any violation of section twenty-
30 five of the public health law (relating to participation in torture or
31 improper treatment of incarcerated individuals by health care profes-
32 sionals).

33 § 6. Subdivision 3 of section 740 of the labor law, as amended by
34 chapter 522 of the laws of 2021, is amended to read as follows:

35 3. Application. The protection against retaliatory action provided by
36 paragraph (a) of subdivision two of this section pertaining to disclo-
37 sure to a public body shall not apply to an employee who makes such
38 disclosure to a public body unless the employee has made a good faith
39 effort to notify ~~[his or her]~~ their employer by bringing the activity,
40 policy or practice to the attention of a supervisor of the employer and
41 has afforded such employer a reasonable opportunity to correct such
42 activity, policy or practice. Such employer notification shall not be
43 required where: (a) there is an imminent and serious danger to the
44 public health or safety; (b) the employee reasonably believes that
45 reporting to the supervisor would result in a destruction of evidence or
46 other concealment of the activity, policy or practice; (c) such activ-
47 ity, policy or practice could reasonably be expected to lead to endan-
48 gering the welfare of a minor; (d) the employee reasonably believes that
49 reporting to the supervisor would result in physical harm to the employ-
50 ee or any other person; ~~[ex]~~ (e) the employee reasonably believes that
51 the supervisor is already aware of the activity, policy or practice and
52 will not correct such activity, policy or practice; or (f) such activ-
53 ity, policy, or practice constitutes a violation under section twenty-
54 five of the public health law (participation in torture or improper
55 treatment of incarcerated individuals by health care professionals).

1 § 7. Paragraphs (a) and (b) of subdivision 2 of section 741 of the
2 labor law, as amended by chapter 117 of the laws of 2020, are amended
3 and a new paragraph (c) is added to read as follows:

4 (a) discloses or threatens to disclose to a supervisor, to a public
5 body, to a news media outlet, or to a social media forum available to
6 the public at large, an activity, policy or practice of the employer or
7 agent that the employee, in good faith, reasonably believes constitutes
8 improper quality of patient care or improper quality of workplace safe-
9 ty; [~~or~~]

10 (b) objects to, or refuses to participate in any activity, policy or
11 practice of the employer or agent that the employee, in good faith,
12 reasonably believes constitutes improper quality of patient care or
13 improper quality of workplace safety[~~or~~]; or

14 (c) reports or threatens to report any violation of section twenty-
15 five of the public health law (participation in torture or improper
16 treatment of incarcerated individuals by health care professionals).

17 § 8. Subdivision 3 of section 741 of the labor law, as amended by
18 chapter 117 of the laws of 2020, is amended to read as follows:

19 3. Application. The protection against retaliatory personnel action
20 provided by subdivision two of this section shall not apply unless the
21 employee has brought the improper quality of patient care or improper
22 quality of workplace safety to the attention of a supervisor and has
23 afforded the employer a reasonable opportunity to correct such activity,
24 policy or practice. This subdivision shall not apply to an action or
25 failure to act described in paragraph (a) of subdivision two of this
26 section where the improper quality of patient care or improper quality
27 of workplace safety described therein presents an imminent threat to
28 public health or safety or to the health of a specific patient or
29 specific health care employee and the employee reasonably believes in
30 good faith that reporting to a supervisor would not result in corrective
31 action; or to any report of a violation under section twenty-five of the
32 public health law (participation in torture or improper treatment of
33 incarcerated individuals by health care professionals).

34 § 9. The introduction or enactment of this act shall not be construed
35 to mean that: (a) conduct described by this act does not already violate
36 state law or constitute professional misconduct; or (b) conduct other
37 than that described by this act does not violate other state law or
38 otherwise constitute professional misconduct.

39 § 10. Severability. If any provision of this act, or any application
40 of any provision of this act, is held to be invalid, that shall not
41 affect the validity or effectiveness of any other provision of this act
42 or any other application of any provision of this act.

43 § 11. This act shall take effect on the first of January next
44 succeeding the date on which it shall have become a law.