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Introduced by M. of A. KELLES, GLICK, PAULIN, COOK, ROSENTHAL, HEVESI, BRONSON, TAYLOR, SIMON, SAYEGH, CRUZ, REYES, GALLAGHER, SEAWRIGHT, BURDICK, JACKSON, LAVINE, GONZALEZ-ROJAS, BICHOTTE HERMELYN, OTIS, ZINERMAN, MAMDANI, SHIMSKY, LEVENBERG, GIBBS -- Multi-Sponsored by -- M. of A. R. CARROLL, DINOWITZ, EPSTEIN, HUNTER, LUPARDO, PEOPLES-STOKES -- read once and referred to the Committee on Higher Education

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

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

1 Section 1. This act shall be known and may be cited as the "end health
2 professionals' complicity in the torture of detained or incarcerated
3 individuals act of 2025".
4 § 2. Legislative policy and intent. This legislation is intended to
5 ensure health professionals fulfill their professional and human rights
6 obligations to prevent and report torture of people who are detained or
7 incarcerated. The purpose is to promote the health and safety of all
8 persons who are held in, work at, or volunteer in a carceral or
9 detention facility in New York by requiring measures that will assist in
10 eliminating torture of detained or incarcerated persons. These measures
11 include: creating a safe environment for detained and incarcerated
12 persons to report concerns about torture to health professionals;
13 requiring that non-incarcerated persons working or volunteering in these
14 facilities report all allegations of torture to an appropriate official
15 in these facilities; mandating documentation and investigation of all
16 reports of torture by the agency responsible for managing these facilities;
17 and designating an agency independent from these facilities to
18 monitor implementation of these requirements. To facilitate the reporting
19 of alleged torture, this legislation requires that such reporting

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

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1 preserve the confidentiality of those involved and prohibits any retali-
2 ation against persons making such reports. The legislation is based on,
3 and is intended to give effect to: accepted standards, including federal,
4 al, state, and local law; as well as professional and international
5 standards relating to torture of detained or incarcerated individuals,
6 and related matters. It is guided by basic principles: (1) health
7 professionals shall be dedicated to providing the highest standard of
8 care, with compassion and respect for human dignity and rights; and (2)
9 torture of detained or incarcerated individuals is wrong and inconsis-
10 tent with the practice of the health professions and all persons respon-
11 sible for the care and custody of detained or incarcerated individuals.
12 The legislature further finds that the conduct prohibited by this act
13 violates the ethical and legal obligations of licensed health profes-
14 sionals and all others working or volunteering in a detention facility.

15 § 3. The public health law is amended by adding a new section 25 to
16 read as follows:

17 § 25. Participation in torture of detained or incarcerated individuals
18 by health professionals. 1. Definitions. As used in this section,
19 unless the context clearly requires otherwise, the following terms have
20 the following meanings:

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

42 (b) "Torture" means any intentional act or intentional omission by
43 which severe pain or suffering, whether physical or mental, is inflicted
44 on a person for no lawful purpose or for such purposes as obtaining from
45 the person or from a third person information or a confession, punishing
46 or disciplining or retaliating against the person for an act the person
47 or a third person has carried out (including the holding of a belief or
48 membership in any group) or is suspected of having or perceived to have
49 carried out, or intimidating or coercing the person or a third person,
50 or for any reason based on discrimination of any kind.

51 (i) "Torture" includes any cruel, inhuman or degrading treatment or
52 punishment as those terms and principles are defined and articulated in
53 relevant international treaties and standards including but not limited
54 to the Convention Against Torture, and Other Cruel, Inhumane, or Degrad-
55 ing Treatment or Punishment, the Istanbul Protocol, the International
56 Covenant on Civil and Political Rights, the United Nations Standard

1 Minimum Rules for Treatment of Prisoners, the Body of Principles for the
2 Protection of All Persons Under Any Form of Detention or Imprisonment,
3 the Basic Principles for the Treatment of Prisoners, and the United
4 Nations Standard Minimum Rules for the Administration of Juvenile
5 Justice and their corresponding interpreting bodies.

6 (ii) "Torture" also includes any cruel and unusual punishment as
7 defined in the United States Constitution or the New York state consti-
8 tution.

9 (c) "Covered facility" means any facility in New York where a health
10 professional licensed by the state works, including but not limited to a
11 correctional facility, a local correctional facility, a juvenile offen-
12 der facility, a county detention facility for juvenile delinquents and
13 persons in need of supervision, a police detention facility, and a
14 facility in which a person is detained due to their immigration status.

15 (d) "Incarcerated individual" means any person who is subject to
16 detention or incarceration.

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

23 (f) "Interrogation" means the questioning of an individual who has
24 been incarcerated, detained, or whose freedom of movement has been
25 otherwise restricted by a law enforcing entity, organization, or offi-
26 cial.

27 (i) "Interrogation" includes the questioning of such individual to aid
28 or accomplish any illegal or not legally sanctioned activity or purpose.

29 (ii) "Interrogation" does not include questioning by health profes-
30 sionals to assess the physical or mental condition of an individual if
31 undertaken in accordance with generally applicable legal, health and
32 professional standards and for the purposes of evaluating, treating,
33 protecting or improving the person's health.

34 (g) "Conflict of interest" means a situation in which a health profes-
35 sional's personal, professional, financial, or other interests or
36 relationships could influence such professional's objectivity, compe-
37 tence, or effectiveness in performing their professional responsibil-
38 ities as set forth in any federal or state law or any code, rules, or
39 regulations, which govern the health professional's profession and the
40 requirements set forth by this section.

41 (i) "Conflict of interest" includes, but is not limited to, having
42 present during a medical encounter close relatives of the health profes-
43 sional or a person with whom the health professional lives in a close
44 relationship.

45 (ii) "Conflict of interest" also includes when a patient reports that,
46 during a medical encounter, a person may have been involved in improper
47 treatment of the patient or another individual and the health profes-
48 sional realizes that such identified person is a close relative of the
49 health professional or a person with whom the professional lives in a
50 close relationship.

51 2. Knowledge. A health professional who receives information that
52 indicates that an incarcerated individual as defined by this section is
53 being, may in the future be, or has been subjected to torture, shall use
54 due diligence in fulfilling all of their responsibilities under this
55 section.

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

7 (b) State and local correctional facilities shall provide visual and
8 auditory privacy to ensure patient-provider confidentiality, as required
9 by applicable state and federal laws, during all health encounters
10 involving persons held under their jurisdiction. Non-health personnel
11 shall not be present in the areas in which the encounter is occurring
12 unless their presence is permitted pursuant to this section, and shall
13 remain sufficiently distant to maintain patient-provider confidentiality
14 so that conversations between an individual who has been incarcerated,
15 detained, or whose freedom of movement has been restricted and health
16 professionals cannot be overheard and patients' visual privacy during
17 such encounters can be maintained, except when non-health professionals'
18 presence is requested by a health professional pursuant to this para-
19 graph. The commissioner shall promulgate rules and regulations to maxi-
20 mize such confidentiality. Such rules and regulations shall: (i) provide
21 for secure and, when reasonable, uniform filing of health records and
22 reporting pursuant to this section by the correctional and health-relat-
23 ed agencies involved in providing care; (ii) ensure that the design of
24 the encounter space facilitates, where reasonable, confidentiality and
25 safety through the use of devices and physical structures including but
26 not limited to, panic buttons, windows to allow visual monitoring,
27 privacy booths, and electronic silent camera monitoring of the encounter
28 by security staff; and (iii) allow for having present additional medical
29 providers or non-security observers during the encounter. Such rules and
30 regulations shall be in accordance with all federal or state laws relat-
31 ing to medical confidentiality. Non-health personnel may be permitted to
32 be in the encounter space if needed for interpreter services or only in
33 exceptional circumstances if the health professionals engaged in the
34 encounter determine that non-health staff is needed to be present in
35 order to ensure the safety of the patient or health staff. Such determi-
36 nation shall be based upon specific behavior by the patient at the time
37 of the encounter or immediately preceding the encounter that creates a
38 substantial risk of imminent violence or uncontrollable disruption
39 occurring during the medical encounter. The health professional shall
40 document in writing such determination and the reasons for determining
41 that there was such substantial risk. A secure electronic log shall be
42 maintained by the agency and covered facility of all encounters when
43 non-health personnel are present during any health encounter.

44 (c) In all clinical assessments relating to an incarcerated individ-
45 ual, whether for therapeutic or evaluative purposes, health profes-
46 sionals shall exercise their professional judgment independent of the
47 interests of a government or other third party. During such medical
48 encounters, the health professional shall not proceed with the encounter
49 if proceeding would involve a conflict of interest as defined in para-
50 graph (g) of subdivision one of this section and shall seek arrangements
51 for the patient to be promptly seen by another provider.

52 4. Certain conduct of health professionals prohibited. (a) No health
53 professional shall knowingly, recklessly, or negligently apply their
54 knowledge or skills in relation to, engage in any professional relation-
55 ship with, or perform professional services in relation to any incarcer-
56 ated individual unless the purpose is solely to evaluate, treat,

1 protect, or improve the physical or mental health or condition of the
2 incarcerated individual (except as permitted by paragraph (b) or (c) of
3 subdivision five of this section).

4 (b) No health professional shall knowingly, recklessly, or negligently
5 engage, directly or indirectly, in any act which constitutes torture of
6 an incarcerated individual, which may include participation in, complicity
7 in, incitement to, assistance in, planning or design of, cover up
8 of, failure to document, or attempt or conspiracy to commit such
9 torture. Prohibited forms of engagement include but are not limited to:

10 (i) knowingly, recklessly, or negligently providing means, knowledge
11 or skills, including clinical findings or treatment, with the intent to
12 facilitate the practice of torture;

13 (ii) knowingly, recklessly, or negligently permitting their knowledge,
14 skills or clinical findings or treatment to be used in the process of or
15 to facilitate torture;

16 (iii) knowingly, recklessly, or negligently examining, evaluating, or
17 treating an incarcerated individual to certify whether torture can
18 begin, be continued, or be resumed;

19 (iv) being present while torture is being administered;

20 (v) omitting or suppressing indications of torture from records or
21 reports; and

22 (vi) altering health records or reports to hide, misrepresent or
23 destroy evidence of torture.

24 (c) No health professional shall knowingly, recklessly, or negligently
25 apply their knowledge or skills or perform any professional service in
26 order to assist in the punishment, detention, incarceration, intimid-
27 ation, or coercion of an incarcerated individual when such assistance
28 is provided in a manner that may adversely affect the physical or mental
29 health or condition of the incarcerated individual (except as permitted
30 by paragraph (a) or (b) of subdivision five of this section).

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

41 5. Certain conduct of health professionals permitted. A health profes-
42 sional may engage in the following conduct so long as such conduct does
43 not otherwise violate subdivision three or four of this section, does
44 not adversely affect the physical or mental health or condition of an
45 incarcerated individual or potential subject, and is not otherwise
46 unlawful:

47 (a) appropriately participating or aiding in the investigation, prose-
48 cution, or defense of a criminal, administrative or civil matter,
49 including presence during the interrogation of a minor at the request of
50 the minor or the minor's parent or guardian and for the purpose of
51 supporting the health of the minor;

52 (b) participating in an act that restrains an incarcerated individual
53 or temporarily alters the physical or mental activity of an incarcerated
54 individual, where the act complies with generally applicable legal,
55 health and professional standards, is necessary for the protection of
56 the physical or mental health, condition or safety of the incarcerated

1 individual, other incarcerated individuals, or persons caring for,
2 guarding or confining the incarcerated individual;

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

8 (d) training related to the following purposes, so long as such train-
9 ing is not provided in support of specific ongoing or anticipated inter-
10 rogations:

11 (i) recognizing and responding to persons with physical or mental
12 illness or conditions,

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

15 (iii) the development of effective interrogation strategies not
16 involving the practice of torture.

17 6. Duty to report. (a) Health professionals in a covered facility, or
18 other individuals providing supervision or services to an incarcerated
19 individual in a covered facility, shall report any instances of torture
20 of incarcerated individuals, or other violations of this section or
21 rules or regulations promulgated pursuant thereto, to an individual
22 designated by the covered facility to receive such complaints and/or the
23 office of the inspector general pursuant to this section.

24 (b) Individuals who have information about potential violations of
25 this section shall be provided the opportunity to confidentially contact
26 governmental and nongovernmental organizations which may provide assist-
27 ance on how such individuals may file a complaint under this section.

28 7. Prohibition on retaliation. No officer, other employee of a covered
29 facility or an employee or agent of another governmental or non-govern-
30 mental organization who is working, operating, or volunteering in a
31 covered facility shall carry out, or cause others to carry out, any form
32 of retaliation against, or threats to, any incarcerated individual,
33 staff of the covered facility or others working in, operating, or volun-
34 teering in the covered facility, or other persons, for reporting
35 torture, or other violations of this section or rules or regulations
36 promulgated pursuant thereto. For the purposes of this subdivision,
37 "reporting" shall include: (a) any contact with any employee of a
38 covered facility, or an employee or agent of any governmental, or non-
39 governmental organization; or (b) communicating with but not limited to
40 the media, lawmakers, the Correctional Association of New York, an
41 attorney, an advocate, an investigative body or any other person or
42 entity. This subdivision shall apply to any reporting of torture by a
43 person including, but not limited to, providing information: about
44 potential violations of this section; concerning how an incarcerated
45 individual or other person may exercise their rights pursuant to this
46 section; about the responsibilities of staff of the covered facility
47 concerning the obligations of this section; or to, or in support of,
48 another incarcerated individual, or other person not involved in a
49 potential violation of this section, but who is considering assisting or
50 has assisted an incarcerated individual who may have been tortured by or
51 in the covered facility or concerned about violations of this section.

52 8. Reports of torture; confidentiality. All reports of torture or
53 other violations of this section, or rules or regulations promulgated
54 pursuant thereto, by any person to an employee or other person working,
55 operating, or volunteering in a covered facility, or an employee or
56 agent of another governmental or non-governmental organization shall be

1 considered confidential by the governmental or non-governmental organ-
2 ization unless the person whose identity would be disclosed agrees in
3 writing to permit disclosure of such information. Such information shall
4 not be revealed to any other person or organization except to the extent
5 that is necessary to treat, investigate, or undertake security or
6 management decisions to respond to an alleged action and ensure the
7 safety, including protection against retaliation, of all persons provid-
8 ing such information.

9 9. Facility-based administrative investigation. When a report of
10 alleged torture or other violation of this section, or rules or regu-
11 lations promulgated pursuant thereto, is made to staff of a covered
12 facility and the incarcerated individual has agreed that such informa-
13 tion may be communicated to the covered facility, such information shall
14 be confidentially communicated to the senior management officials of the
15 covered facility, who shall be responsible for documenting the allega-
16 tion and ensuring the safety, including protection against retaliation,
17 of the person who has made an allegation of being tortured and any indi-
18 vidual who has provided information about the alleged torture or other
19 violation of this section, or rules or regulations promulgated pursuant
20 thereto. The covered facility shall oversee a facility-based adminis-
21 trative investigation into the allegation and report such information to
22 the agency responsible for the administration of the covered facility.
23 Such investigation shall: be done promptly, thoroughly, and objectively
24 of all allegations; require that investigators gather and preserve
25 direct and circumstantial evidence; and require that investigators
26 interview alleged victims, others involved in the incident, and
27 witnesses, and document such interviews. The resulting outcome of the
28 investigation shall be documented, including, but not limited to, a
29 description of physical and testimonial evidence, reasoning behind cred-
30 ibility assessments, investigative facts and findings, and any action
31 taken in response to the findings of the investigation. Reports of alle-
32 gations of torture or other violations of this section, or rules or
33 regulations promulgated pursuant thereto, shall promptly be provided to
34 the office of the inspector general. The results of any investigations
35 conducted by or on behalf of the administration of a covered facility
36 pursuant to this section shall also be promptly provided to the office
37 of the inspector general. The agency responsible for the covered facili-
38 ty shall publish reports on the agency's website with quarterly, semi-
39 annual and annual cumulative reports of the number of incidents of
40 alleged torture or other violation of this section or rules or regu-
41 lations promulgated pursuant thereto, the month such incidents occurred,
42 the facilities in which such incidents allegedly occurred, the type of
43 torture or other violation of this section or rules or regulations
44 promulgated pursuant thereto alleged, the findings of the investigation,
45 and any disciplinary action taken in response to such investigation. The
46 agency shall maintain the confidentiality of the reporters, incarcerated
47 individuals, and witnesses in such published reports.

48 10. Obligations of the inspector general. The office of the inspector
49 general, in receiving complaints and investigating compliance with this
50 section and rules or regulations promulgated pursuant thereto and in its
51 interaction with agencies of covered facilities, shall be obligated to:

52 (a) Provide a means for an incarcerated individual or a third party to
53 report an allegation of torture or other violation of this section, or
54 rules or regulations promulgated pursuant thereto, to the office of the
55 inspector general. The incarcerated individual shall be provided a means
56 to report such a complaint confidentially through the mail, telephone,

1 and their tablet or other electronic device providing access to outside
2 sources. Staff or other individuals working or volunteering in a covered
3 facility or an employee or agent of another governmental or non-govern-
4 mental organization may also report an allegation of torture or other
5 violation of this section, or rules or regulations promulgated pursuant
6 thereto, to the office of the inspector general when: (i) the incarcer-
7 ated individual has agreed that such information may be communicated to
8 the office of the inspector general; and (ii) the reporting person is
9 concerned about the safety of the incarcerated individual, staff or
10 other individuals reporting torture or a violation of this section, or
11 rules or regulations promulgated pursuant thereto, if such report was
12 made to officials of the covered facility or another state agency. When
13 an incarcerated individual does not provide consent to report an allega-
14 tion of torture or other violation of this section, or rules or regu-
15 lations promulgated pursuant thereto, the staff or other individuals
16 working or volunteering in a covered facility or an employee or agent of
17 another governmental or non-governmental organization who has received
18 an allegation of torture or other violation of this section, or rules or
19 regulations promulgated pursuant thereto, may report to the office of
20 the inspector general information about such violation to the extent
21 that such information cannot lead to the identification of the person
22 who has provided the information about the alleged violation. Such
23 report may include but need not be limited to: identifying the facility,
24 but not the location, where the alleged violation occurred; the month,
25 but not the date, of the alleged incident; and concerns about a pattern
26 or practice of violations of the law or regulations, without specifying
27 information about any particular incident. The office of the inspector
28 general shall provide a means by which such information can be reported
29 anonymously and by means of mail, telephone, and an online complaint
30 form;

31 (b) Report any complaint they receive to the covered facility where
32 such complaint allegedly occurred or where such incarcerated individual
33 is detained or incarcerated unless the office of the inspector general
34 determines that such reporting will result in unreasonable risk to the
35 safety of the incarcerated individual or other persons involved in the
36 reporting of a violation of this section, or rules or regulations
37 promulgated pursuant thereto; and

38 (c) Publish reports on its website with quarterly, semi-annual and
39 annual cumulative data on: the number of incidents of alleged torture or
40 other violations of this section, or rules or regulations promulgated
41 pursuant thereto; the month such incidents allegedly occurred; the
42 facility in which such incidents allegedly occurred; the type of torture
43 or other violation of this section, or rules or regulations promulgated
44 pursuant thereto, alleged; and what action agencies have taken in
45 response to such reports. The agency shall maintain the confidentiality
46 of the reporters, incarcerated individuals and witnesses in such
47 published reports.

48 11. Monitoring of covered facilities. The office of the inspector
49 general shall monitor all covered facilities concerning their compliance
50 with this section and any rules or regulations promulgated pursuant
51 thereto. In exercising such authority, the office of the inspector
52 general shall have direct and immediate access to: (a) all areas in the
53 covered facilities where incarcerated individuals reside, where they
54 participate in programs or other activities, or where they might tempo-
55 rarily be located; (b) review and promptly obtain copies of all clinical
56 records, data, other records and information maintained by the covered

1 facility or other governmental or non-governmental agencies working,
2 operating or volunteering in the covered facility or providing services
3 to an incarcerated individual, relating to the office's obligation to
4 monitor compliance with this section, including, but not limited to,
5 assessment of any alleged complaints concerning any incarcerated indi-
6 vidual and any other alleged violation of this section or rules or regu-
7 lations promulgated pursuant thereto; and (c) interview and communicate
8 confidentially with any incarcerated individual, any employee of a
9 covered facility or an employee or agent of another governmental or
10 non-governmental organization who is working, operating or volunteering
11 in a covered facility. The office of the inspector general shall main-
12 tain the confidentiality of all patient-specific information obtained
13 during the course of its monitoring activities.

14 12. Annual reports. The office of the inspector general shall submit
15 at least annually a report to the governor and the legislature describ-
16 ing the state's progress in complying with this section. Such report
17 shall be publicly available and shall include, but not be limited to:
18 (a) data regarding the number of reports received by the office concern-
19 ing alleged violations of this section by facility, results of investi-
20 gations by the covered facilities of any complaints related to violation
21 of this section, and types of corrective actions that were taken by the
22 covered facilities in response to such investigations; and (b) the
23 results of the office's review of patterns and trends in the reporting
24 of and response to reportable incidents pursuant to this section,
25 including the office's recommendations for appropriate preventive and
26 corrective actions based upon its findings, and efforts undertaken by
27 the covered facilities and other governmental or non-governmental
28 persons working, operating or volunteering in the covered facility in
29 response to the office's findings and recommendations. The covered
30 facilities and other governmental and non-governmental agencies working
31 or operating in a covered facility shall respond in writing to the
32 office's reports, including, but not limited to, the office's findings
33 and recommendations and what actions if any, the covered facility or
34 other agency has undertaken or plans to undertake to address issues
35 raised in the office's reports.

36 13. Employee training. All covered facilities shall ensure that the
37 curriculum for new employees or other persons working, operating, or
38 volunteering in a covered facility shall include at least three hours of
39 training about the provisions of this section and any rules and regu-
40 lations promulgated thereto, including, but not limited to, all methods
41 of reporting complaints about torture of incarcerated individuals or
42 other violations of this section or rules or regulations promulgated
43 thereto, how to ensure confidentiality of medical encounters, require-
44 ments on preserving the confidentiality of persons reporting violations
45 of this section or rules or regulations promulgated thereto, and the
46 obligations of covered facilities to investigate, document and publicly
47 report instances of alleged violations of this section and rules and
48 regulations promulgated thereto. All employees and other persons working
49 or operating in a covered facility shall receive two additional hours of
50 training each year on the requirements of this section and any rules and
51 regulations promulgated thereto similar to the training mandated for new
52 employees.

53 14. Rules and regulations. All covered facilities and other govern-
54 mental agencies that have staff working or operating in a covered facil-
55 ity shall promulgate rules and regulations pertaining to this section.
56 Such rules and regulations shall include, but not be limited to: meas-

1 ures to ensure that health encounters are conducted in private and main-
2 tain confidentiality; prohibitions against torture of incarcerated indi-
3 viduals and the responsibility of every person in the facility to report
4 any instance of such abuse; measures that have been implemented for
5 persons to report violations of this section or any rules or regulations
6 promulgated thereto both to the covered facility and/or the office of
7 the inspector general; procedures for the covered facility to record,
8 investigate, and respond to violations of this section or any rules or
9 regulations promulgated thereto; and the prohibition of retaliation
10 against any incarcerated individual, persons working, operation or
11 volunteering in the covered facility, or other persons who report any
12 violation of this section or any rules or regulations promulgated there-
13 to. Covered facilities shall also provide information orally and in
14 writing to all incarcerated individuals about the requirements of this
15 section and any rules or regulations promulgated thereto, including, but
16 not limited to: the means by which incarcerated individuals can report
17 violations of this section or any rules or regulations promulgated ther-
18 eto; the obligation of staff and others to report any alleged violations
19 of this section or any rules or regulations promulgated thereto; the
20 requirement to maintain confidentiality of any reports; and the duties
21 of the office of the inspector general to receive such reporting and to
22 monitor compliance with this section and any rules or regulations
23 promulgated thereto.

24 15. Mitigation. The following may be considered in full or partial
25 mitigation of a violation of this section or any rules or regulations
26 promulgated thereto by the health professional:

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

28 (b) cooperation in good faith with an investigation of a violation of
29 this section or any rules or regulations promulgated thereto.

30 16. Scope of practice not expanded. This section shall not be
31 construed to expand the lawful scope of practice of any health profes-
32 sional.

33 § 4. Section 6509 of the education law is amended by adding a new
34 subdivision 15 to read as follows:

35 (15) Any violation of section twenty-five of the public health law
36 (relating to participation in torture of incarcerated individuals by
37 health professionals), subject to mitigation under that section.

38 § 5. Section 6530 of the education law is amended by adding a new
39 subdivision 51 to read as follows:

40 51. Any violation of section twenty-five of the public health law
41 (relating to participation in torture of incarcerated individuals by
42 health professionals), subject to mitigation under that section.

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

46 (b) provides information to, or testifies before, any public body
47 conducting an investigation, hearing or inquiry into any such activity,
48 policy or practice by such employer; ~~[e]~~

49 (c) objects to, or refuses to participate in any such activity, policy
50 or practice~~[r]~~; or

51 (d) reports or threatens to report any violation of section twenty-
52 five of the public health law (relating to participation in torture of
53 incarcerated individuals by health professionals).

54 § 7. Subdivision 3 of section 740 of the labor law, as amended by
55 chapter 522 of the laws of 2021, is amended to read as follows:

1 3. Application. The protection against retaliatory action provided by
2 paragraph (a) of subdivision two of this section pertaining to disclo-
3 sure to a public body shall not apply to an employee who makes such
4 disclosure to a public body unless the employee has made a good faith
5 effort to notify [~~his or her~~] their employer by bringing the activity,
6 policy or practice to the attention of a supervisor of the employer and
7 has afforded such employer a reasonable opportunity to correct such
8 activity, policy or practice. Such employer notification shall not be
9 required where: (a) there is an imminent and serious danger to the
10 public health or safety; (b) the employee reasonably believes that
11 reporting to the supervisor would result in a destruction of evidence or
12 other concealment of the activity, policy or practice; (c) such activ-
13 ity, policy or practice could reasonably be expected to lead to endan-
14 gering the welfare of a minor; (d) the employee reasonably believes that
15 reporting to the supervisor would result in physical harm to the employ-
16 ee or any other person; [~~or~~] (e) the employee reasonably believes that
17 the supervisor is already aware of the activity, policy or practice and
18 will not correct such activity, policy or practice; or (f) such activ-
19 ity, policy, or practice constitutes a violation under section twenty-
20 five of the public health law (participation in torture of incarcerated
21 individuals by health professionals).

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

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

31 (b) objects to, or refuses to participate in any activity, policy or
32 practice of the employer or agent that the employee, in good faith,
33 reasonably believes constitutes improper quality of patient care or
34 improper quality of workplace safety[~~+~~]; or

35 (c) reports or threatens to report any violation of section twenty-
36 five of the public health law (participation in torture of incarcerated
37 individuals by health professionals).

38 § 9. Subdivision 3 of section 741 of the labor law, as amended by
39 chapter 117 of the laws of 2020, is amended to read as follows:

40 3. Application. The protection against retaliatory personnel action
41 provided by subdivision two of this section shall not apply unless the
42 employee has brought the improper quality of patient care or improper
43 quality of workplace safety to the attention of a supervisor and has
44 afforded the employer a reasonable opportunity to correct such activity,
45 policy or practice. This subdivision shall not apply to an action or
46 failure to act described in paragraph (a) of subdivision two of this
47 section where the improper quality of patient care or improper quality
48 of workplace safety described therein presents an imminent threat to
49 public health or safety or to the health of a specific patient or
50 specific health [~~care~~] employee and the employee reasonably believes in
51 good faith that reporting to a supervisor would not result in corrective
52 action; or to any report of a violation under section twenty-five of the
53 public health law (participation in torture of incarcerated individuals
54 by health professionals).

55 § 10. The introduction or enactment of this act shall not be construed
56 to mean that: (a) conduct described by this act does not already violate

1 state law or constitute professional misconduct; or (b) conduct other
2 than that described by this act does not violate other state law or
3 otherwise constitute professional misconduct.

4 § 11. Severability. If any provision of this act, or any application
5 of any provision of this act, is held to be invalid, that shall not
6 affect the validity or effectiveness of any other provision of this act
7 or any other application of any provision of this act.

8 § 12. This act shall take effect on the first of January next
9 succeeding the date on which it shall have become a law.