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Introduced by Sens. SALAZAR, HOYLMAN-SIGAL, BROUK, COMRIE, KAVANAGH, KRUEGER, RIVERA, 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 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 facili-
17 ties; and designating an agency independent from these facilities to
18 monitor implementation of these requirements. To facilitate the report-
19 ing of alleged torture, this legislation requires that such reporting
20 preserve the confidentiality of those involved and prohibits any retali-
21 ation against persons making such reports. The legislation is based on,
22 and is intended to give effect to: accepted standards, including feder-
23 al, state, and local law; as well as professional and international

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

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1 standards relating to torture of detained or incarcerated individuals,
2 and related matters. It is guided by basic principles: (1) health
3 professionals shall be dedicated to providing the highest standard of
4 care, with compassion and respect for human dignity and rights; and (2)
5 torture of detained or incarcerated individuals is wrong and inconsis-
6 tent with the practice of the health professions and all persons respon-
7 sible for the care and custody of detained or incarcerated individuals.
8 The legislature further finds that the conduct prohibited by this act
9 violates the ethical and legal obligations of licensed health profes-
10 sionals and all others working or volunteering in a detention facility.

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

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

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

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

47 (i) "Torture" includes any cruel, inhuman or degrading treatment or
48 punishment as those terms and principles are defined and articulated in
49 relevant international treaties and standards including but not limited
50 to the Convention Against Torture, and Other Cruel, Inhumane, or Degrad-
51 ing Treatment or Punishment, the Istanbul Protocol, the International
52 Covenant on Civil and Political Rights, the United Nations Standard
53 Minimum Rules for Treatment of Prisoners, the Body of Principles for the
54 Protection of All Persons Under Any Form of Detention or Imprisonment,
55 the Basic Principles for the Treatment of Prisoners, and the United

1 Nations Standard Minimum Rules for the Administration of Juvenile
2 Justice and their corresponding interpreting bodies.

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

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

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

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

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

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

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

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

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

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

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

53 3. General obligations of health professionals. (a) Every health
54 professional shall provide every incarcerated individual under their
55 professional care with care or treatment consistent with generally
56 applicable legal, health and professional standards to the extent that

1 they are reasonably able to do so under the circumstances, including
2 protecting the confidentiality of patient information.

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

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

48 4. Certain conduct of health professionals prohibited. (a) No health
49 professional shall knowingly, recklessly, or negligently apply their
50 knowledge or skills in relation to, engage in any professional relation-
51 ship with, or perform professional services in relation to any incarcer-
52 ated individual unless the purpose is solely to evaluate, treat,
53 protect, or improve the physical or mental health or condition of the
54 incarcerated individual (except as permitted by paragraph (b) or (c) of
55 subdivision five of this section).

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

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

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

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

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

17 (v) omitting or suppressing indications of torture from records or
18 reports; and

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

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

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

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

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

49 (b) participating in an act that restrains an incarcerated individual
50 or temporarily alters the physical or mental activity of an incarcerated
51 individual, where the act complies with generally applicable legal,
52 health and professional standards, is necessary for the protection of
53 the physical or mental health, condition or safety of the incarcerated
54 individual, other incarcerated individuals, or persons caring for,
55 guarding or confining the incarcerated individual;

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

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

9 (i) recognizing and responding to persons with physical or mental
10 illness or conditions,

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

13 (iii) the development of effective interrogation strategies not
14 involving the practice of torture.

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

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

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

50 8. Reports of torture; confidentiality. All reports of torture or
51 other violations of this section, or rules or regulations promulgated
52 pursuant thereto, by any person to an employee or other person working,
53 operating, or volunteering in a covered facility, or an employee or
54 agent of another governmental or non-governmental organization shall be
55 considered confidential by the governmental or non-governmental organ-
56 ization unless the person whose identity would be disclosed agrees in

1 writing to permit disclosure of such information. Such information shall
2 not be revealed to any other person or organization except to the extent
3 that is necessary to treat, investigate, or undertake security or
4 management decisions to respond to an alleged action and ensure the
5 safety, including protection against retaliation, of all persons provid-
6 ing such information.

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

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

50 (a) Provide a means for an incarcerated individual or a third party to
51 report an allegation of torture or other violation of this section, or
52 rules or regulations promulgated pursuant thereto, to the office of the
53 inspector general. The incarcerated individual shall be provided a means
54 to report such a complaint confidentially through the mail, telephone,
55 and their tablet or other electronic device providing access to outside
56 sources. Staff or other individuals working or volunteering in a covered

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

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

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

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

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

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

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

51 14. Rules and regulations. All covered facilities and other govern-
52 mental agencies that have staff working or operating in a covered facil-
53 ity shall promulgate rules and regulations pertaining to this section.
54 Such rules and regulations shall include, but not be limited to: meas-
55 ures to ensure that health encounters are conducted in private and main-
56 tain confidentiality; prohibitions against torture of incarcerated indi-

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

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

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

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

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

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

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

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

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

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

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

47 (c) objects to, or refuses to participate in any such activity, policy
48 or practice[~~+~~]; or

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

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

54 3. Application. The protection against retaliatory action provided by
55 paragraph (a) of subdivision two of this section pertaining to disclo-
56 sure to a public body shall not apply to an employee who makes such

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

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

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

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

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

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

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

52 § 10. The introduction or enactment of this act shall not be construed
53 to mean that: (a) conduct described by this act does not already violate
54 state law or constitute professional misconduct; or (b) conduct other
55 than that described by this act does not violate other state law or
56 otherwise constitute professional misconduct.

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

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