

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 22-133—sSB 448
Public Health Committee

**AN ACT REQUIRING THE DEVELOPMENT OF A PLAN CONCERNING
THE DELIVERY OF HEALTH CARE AND MENTAL HEALTH CARE
SERVICES TO INMATES OF CORRECTIONAL INSTITUTIONS**

SUMMARY: This act requires the Department of Correction (DOC) commissioner, by January 1, 2023, to develop a plan for providing health care services to inmates at DOC correctional institutions (i.e., prisons or jails under the commissioner’s jurisdiction), including mental health, substance use disorder, and dental care services.

The plan must include guidelines to implement several requirements that ensure, among other things, the following outcomes:

1. there are enough mental health therapists at each correctional institution to provide mental health care services to inmates;
2. these therapists prescribe psychotropic medication only under specified conditions;
3. each inmate receives an initial health assessment and, when clinically indicated, an annual physical exam and an exit interview about a medical discharge plan;
4. inmates generally have access to vaccines that are licensed or authorized under an emergency use authorization;
5. each inmate generally receives an annual dental screening and dental care as set forth in a dental care plan;
6. a medical professional interviews each inmate, at entry, on their drug and alcohol use history, and correctional institutions immediately transfer inmates to an appropriate area for treatment if they are in withdrawal; and
7. the York Correctional Institution provide inmates who are pregnant with prenatal visits at a frequency consistent with community standards.

Under the act, by February 1, 2023, the commissioner must report to the Public Health and Judiciary committees on the plan along with recommendations for any legislation needed to implement it and an implementation timeline.

EFFECTIVE DATE: Upon passage

DOC PLAN FOR INMATE HEALTH CARE SERVICES

Under the act, the DOC commissioner’s required plan for health care services must include guidelines for implementing requirements in several areas, set forth below.

Mental Health Services (§ 1(b)(1))

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The act's plan must include several requirements related to mental health care at correctional institutions.

The plan must require that there are enough mental health therapists, as the commissioner determines, at each correctional institution to provide mental health care services to inmates. Under the act, "mental health therapists" are psychiatrists, psychologists, advanced practice registered nurses (APRNs) specializing in mental health, clinical or master social workers, or professional counselors.

Under the plan, when an inmate requests, or correctional staff refer an inmate to, mental health services, the mental health therapist must conduct an assessment to determine whether the services are needed before providing them. The mental health therapists' services must align with the (1) security needs of all inmates and correctional staff and (2) institution's overall operation, as the warden determines.

Psychotropic Medication. Under the act, for mental health therapists who are licensed to prescribe medication, the required plan must prohibit them from prescribing psychotropic medication to an inmate unless several conditions are met. A "psychotropic medication" is one used to treat a mental health disorder that affects behavior, mood, thoughts, or perception.

The required conditions are as follows:

1. Mental health and medical history: the therapist must have reviewed the inmate's medical and mental health history, including current medications.
2. Risk-benefit determination: the therapist must determine, based on the review of the inmate's medical and mental health history, that the benefits of prescribing the medication outweigh the risks of doing so.
3. Mental health diagnosis or emergency assessment: (a) the therapist must diagnose the inmate with a mental health disorder; (b) the inmate has a previous diagnosis of a mental health disorder (from a psychiatrist or an APRN specializing in mental health), and the medication is used to treat that disorder; or (c) in an emergency, the therapist determines that the inmate's mental health is substantially impaired and psychotropic medication is needed.
4. Medication approval under treatment plan: the therapist must approve the medication as part of the inmate's mental health treatment plan.
5. Recordkeeping: the therapist must keep a record of (a) each psychotropic medication prescribed to the inmate and (b) all other medications the inmate is taking.

Health Assessments and Physical Exams (§ 1(b)(2)-(5))

Under the act's required plan, each inmate must receive an initial health assessment from a medical professional (i.e., a physician, APRN, physician assistant (PA), or a registered or practical nurse) within 14 days after the inmate's intake into the institution. Based on that assessment, if a physician, PA, or APRN recommends that the inmate be placed in a medical or mental health housing unit, then DOC must ensure that this happens unless there are significant safety or security reasons to not do so.

The act's plan also must require that inmates receive annual physical exams,

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when clinically indicated, from a physician, PA, or APRN. These exams may include (1) a breast and gynecological exam or prostate exam, where appropriate, and (2) any test the provider finds appropriate.

Under the required plan, medical professionals must perform inmate health assessments in a location at the institution that the warden finds appropriate. Any samples collected during the assessment may be sent to an outside laboratory for analysis.

Exit Interview With Discharge Planner (§ 1(b)(6))

The act's plan must require a discharge planner to conduct an exit interview of each inmate before the inmate's discharge if it is clinically indicated. But if this does not occur, then the scheduled discharge cannot be delayed. During the interview, the discharge planner must discuss any recommendations from a physician, PA, or APRN for continued medical care or treatment for the inmate when back in the community.

Under the act, the discharge planner must be a registered or practical nurse, clinical or master social worker, or professional counselor.

Physician on Call (§ 1(b)(7))

Under the act's required plan, a physician must be on call on weekends, holidays, and outside regular work hours to give needed medical care to inmates.

Vaccinations (§ 1(b)(8))

Under the act's required plan, the DOC commissioner generally must ensure that inmates have access to all vaccines licensed or authorized under an emergency use authorization by the federal Food and Drug Administration that are recommended by the National Centers for Disease Control and Prevention's Advisory Committee on Immunization Practices (ACIP). This applies (1) subject to vaccine availability and (2) unless there are substantial security concerns with providing access to these vaccines.

Subject to availability, if an inmate requests such a vaccine and a physician, PA, or APRN determines that ACIP recommends it for the inmate, then that provider must prescribe it for the inmate unless doing so would impose significant safety concerns.

Dental Care (§ 1(b)(9))

The act's plan must require that, except in exigent circumstances, inmates receive a dental screening, conducted by a dental professional, within one year after first entering the institution and at least annually after that. For these purposes, dental professionals are dentists, dental hygienists, and dental assistants.

Under the plan, the dental professional must develop a dental care plan for the inmate when performing the screening. The inmate must receive dental care, per

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the care plan, throughout the inmate's time at the institution. The DOC commissioner, in consultation with a dentist, must ensure that each correctional institution has a dental exam room that is fully equipped with all necessary equipment to perform dental exams.

HIV Testing (§ 1(b)(10))

The act's plan must require a medical professional to administer an HIV test to each inmate who requests it, subject to test availability. Except in exigent circumstances and subject to test availability, these professionals also must offer an HIV test to each inmate where it is clinically indicated (1) when the inmate enters a correctional institution or (2) during an annual physical assessment.

Substance Use Disorder Services (§ 1(b)(11)-(13))

Under the act's required plan, a medical professional must interview inmates about their drug and alcohol use history when they first enter the institution. If the inmate shows drug or alcohol withdrawal symptoms at that time, a medical professional must perform a physical assessment and communicate the results to a physician, PA, or APRN. Except in exigent circumstances, a drug and alcohol counselor must also evaluate the inmate within five days after first entry.

The plan must require correctional institutions to immediately transfer an inmate to an appropriate area for medical treatment if a physician, PA, or APRN determines the inmate is in withdrawal. One of these providers must periodically evaluate each inmate who shows signs of or discloses drug or alcohol addiction or who is in withdrawal. The provider must decide how often to do these evaluations.

Under the plan, a physician, PA, or APRN with experience in substance use disorder diagnosis and treatment must oversee the medical treatment of inmates in withdrawal. A medical professional must be in the medical unit whenever these inmates get medical treatment.

For inmates who show signs of or disclosed an addiction to drugs or alcohol, the plan must require a drug and alcohol counselor to (1) offer substance use disorder counseling services, including individual and group sessions, and (2) encourage participation in at least one session. At discharge, a discharge planner (see above, *Exit Interview With Discharge Planner*) may refer these inmates to a substance use disorder treatment program in the community that the discharge planner finds appropriate.

Specific Services for Pregnant Inmates (§ 1(b)(14)-(15))

The act's plan must also include certain requirements for pregnant inmates at the York Correctional Institution, the state's only correctional facility for females.

Under the plan, York must provide inmates who are pregnant and drug- or alcohol-dependent with information on the (1) dangers of undergoing withdrawal without medical treatment, (2) importance of treatment for withdrawal during the second trimester, and (3) effects of neonatal abstinence syndrome on a newborn

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(i.e., conditions caused by withdrawal from drug exposure in the womb).

The plan also must require York to provide inmates who are pregnant with prenatal visits at a frequency that an obstetrician determines is consistent with community standards.

Medical School Residency Training (§ 1(b)(16))

Under the act's required plan, DOC must issue a request for information for medical schools to apply to provide practical training at correctional institutions as part of a medical residency program in which participating residents provide inmates with health care services.

BACKGROUND

DOC Policies

DOC Administrative Directive 8.1 requires DOC, either directly or through agents, to provide inmates with health care services that meet community standards. It lists several categories of services that DOC's contracted health services provider must provide (e.g., sick call and emergency services, pharmacy services, dental care, mental health services, and discharge planning). Among various other provisions, the directive requires that (1) staff conduct a comprehensive health screening before placing a newly admitted inmate into the general population and (2) inmates receive periodic health assessments as determined by the responsible physician. (Specific types of assessments or examinations are required in certain situations.)

Other DOC directives give more detail about certain types of medical services for inmates, such as dental services, mental health services, and psychoactive medication.

Related Act

PA 22-118, § 207, requires the DOC commissioner, in consultation with the Department of Mental Health and Addiction Services and the Judicial Department, to annually evaluate substance use disorder and mental health screening, diagnostic, and treatment services available to inmates.