

The Board of Correction

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The Board of Correction (the “Board”) is proposing a rule amendment and a new rule to improve the prevention, reporting, and investigation of injuries to people while incarcerated in jails and other facilities operated by the Department of Correction (“DOC”).

When and where is the hearing?

The Board of Correction will hold a public hearing on the proposed rules. The public hearing will take place at **9:00 AM** on **June 20, 2019**. The hearing will be held at 22 Reade Street, Spector Hall, New York, New York, 10007.

How do I comment on the proposed rules? Anyone can comment on the proposed rules by:

- **Website.** You can submit comments to the Board through the NYC rules website at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to the Board at BOC@boc.nyc.gov.
- **Mail.** You can mail comments to the Board, Attn: Kate McMahon, 1 Centre Street, Room 2213, New York, NY 10007.
- **Fax.** You can fax comments to the Board at 212-669-7980.
- **By speaking at the hearing.** Anyone who wants to comment on the proposed rules at the public hearing must sign up to speak. You can sign up before the hearing by calling 212-669-7900. You can also sign up in the hearing room before the hearing begins on **June 20, 2019**. You can speak for up to three (3) minutes.

Is there a deadline to submit comments? Yes, you must submit comments by the close of business on **June 20, 2019**.

Do you need assistance to participate in the hearing? Please inform the Board if you need a reasonable accommodation of a disability at the Hearing. Please also inform us if you need a language interpreter. You can inform us by mail at the address given above, by telephone at 212-669-7900, or by email at boc@boc.nyc.gov. Please inform us by the close of business on **June 20, 2019** so that we have sufficient time to arrange the accommodation.

Can I review the comments made on the proposed rules? You can review the comments made online on the proposed rules by going to the website at <http://rules.cityofnewyork.us/>. One week after the hearing, a transcript of the hearing and copies of the written comments will be available to the public on the Board’s website.

What authorizes the Board of Correction to make these rules? Sections 626 and 1043 of the New York City Charter authorize the Board to propose these rules. The proposed new rule

40 RCNY § 3-16 was not included in the Board's regulatory agenda for this Fiscal Year because it was not contemplated when the Board published the agenda.

Where can I find the Board of Correction's rules? The Board's rules are in Title 40 of the Rules of the City of New York, and are also available on the Board's website under the "Jail Regulations" tab.

What requirements govern the rulemaking process? The Board must meet the requirements of Section 1043 of the City Charter when creating or amending rules. This notice is made according to the requirements of Section 1043 of the City Charter.

Statement of Basis and Purpose of Proposed Rules

The proposed rule revisions would amend the Health Care Minimum Standards adopted by the Board of Correction (“Board” or “BOC”), set forth in Chapter 3 of Title 40 of the Rules of the City of New York. Specifically, the revisions would:

- Amend various provisions of Section 3-08 (Privacy and Confidentiality) of the Health Care Minimum Standards; and
- Add a new Section 3-16 (Inmate Injury Response) to the Health Care Minimum Standards.

The New York City Charter mandates that there shall be a Board of Correction, § 626(a), responsible for inspecting and visiting all institutions and facilities under the jurisdiction of DOC. § 626(c)(1). The Board has the “powers and duty” to conduct “evaluation of departmental performance.” § 626(c)(4). Under § 626(e) of the Charter, the Board is authorized to establish minimum standards “for the care, custody, correction, treatment, supervision, and discipline of all persons held or confined under the jurisdiction of” DOC.

The Board promulgated Health Care Minimum Standards in 1991. These Standards seek to ensure patient care in the jails is consistent with legal requirements, accepted professional and community standards, and sound professional judgment and practice. This includes requiring the protection of confidential private health information of people in DOC’s custody. To that end, these Standards promote the health and safety of people incarcerated in the City’s jails and to further the Board’s mandate under the City Charter.

In January 2019, the Board published a report titled “Serious Injury Reports in NYC Jails” (“Serious Injury Report”), which reviewed aggregate data on serious injuries to people in custody over time and summarized BOC staff’s in-depth audit of three months of injury reports and investigations.¹ The Injury-to-Inmate form (“Injury Form”) is the primary tool for documenting and investigating both serious and non-serious injuries in the jails. The Injury Form includes a section requiring NYC Health + Hospital’s Correctional Health Services staff (“CHS”) to enter the nature of the injury after CHS has conducted a medical evaluation of the injured person; once CHS enters this information, the Injury Form is transmitted back to DOC to investigate the circumstances of the injury and report its findings on the Form.

As noted in the Board’s Report, when serious injuries occur in the jails, their consequences are severe and wide-ranging.² Serious injuries affect the short and long-term physical and mental health of individuals while incarcerated and can have a compounding negative impact on individuals’ employment, education, housing, and general reintegration into the community.³ The Report further states:

The City must understand the rates, types, and circumstances related to serious injuries occurring in NYC jails in order to prevent

¹ Serious Injury Report (p. 3); available at: <https://www1.nyc.gov/assets/boc/downloads/pdf/Reports/BOC-Reports/2019.01.07%20-%20BOC%20Serious%20Injury%20Report%20-%20Final.pdf>.

² Serious Injury Report (p. 3) (Ludwig, Ariel, et al., *Injury Surveillance in New York City Jails*, 102 Am J Public Health, 1108 (2012), available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3483942/>.)

³ *Id.*

them. Additionally, accurate reporting is necessary to maintain public accountability and trust in and engagement with government. When implemented, this report's recommendations will increase prevention of serious injuries to incarcerated people and promote problem-solving and transparency.⁴

The Serious Injury Report details significant inconsistencies and deficiencies in the reporting and investigation of serious injuries by DOC and CHS. The proposed rules seek to:

(1) expressly allow CHS to share with DOC specific diagnoses related to injuries sustained by people while in DOC custody; and

(2) address the deficiencies identified in the Serious Injury Report by requiring DOC and CHS to comply with mutual data collection and reporting requirements concerning injuries to people while incarcerated in the City's jails.

Following is a descriptive summary of the proposed rules.

Proposed Amendments, Generally

Section 1-01

Because individuals in DOC custody are people first and the circumstance of their incarceration is not their defining feature, the Board has made a commitment to employ person-first language in its Standards and general communications going forward. To this end, the Board proposes deleting all references to "Inmates" (with the exception of references to Injury-to-Inmate forms, which are identified by their title) in favor of person-first terms such as "people in custody."

Proposed Amendments to Rule § 3-08 (Privacy and Confidentiality)

Section 3-08(b)(2)

To avoid "dual loyalty" issues,⁵ § 3-08(b)(2) prohibits health care personnel from conducting body cavity searches or strip searches of people in custody. The proposed amendment to subdivision (b)(2) would extend this prohibition to "forensic evaluations for criminal prosecution or investigatory purposes," with the exception of the Forensic Psychiatric Evaluation Clinics.⁶

Section 3-08(c)(3)

Section 3-08(c)(3) enumerates the circumstances under which health care personnel may report a person in custody's health information to DOC without the person's written consent. However, § 3-08(c)(3) states that "such information shall not include the specific diagnosis or the entire health record" of the person in custody.

⁴ *Id.*

⁵ "Dual loyalty is an ethical dilemma commonly encountered by health care professionals caring for persons in custody. Dual loyalty may be defined as clinical role conflict between professional duties to a patient and obligations, express or implied, to the interests of a third party such as an employer, an insurer, or the state." Pont, Jörg et al., *Dual Loyalty in Prison Health Care*, 102 Am J Public Health, 475 (2012).

⁶ In 2018, Health + Hospitals consolidated the management of its four forensic psychiatric evaluation clinics under CHS in an effort to streamline the forensic psychiatric evaluation process and reduce the amount of time persons spend in jail custody awaiting a mental fitness evaluation.

In November 2013, the City's Department of Health and Mental Hygiene (DOHMH) (then the City's correctional Health Authority) first sought—and the Board approved—a variance from § 3-08(c)(3)'s prohibition on sharing specific diagnoses with DOC. Specifically, the variance permitted CHS to provide DOC with specific diagnoses related only to injuries sustained by persons in correctional custody. The reporting of diagnoses unrelated to an injury remained prohibited, as stated in the variance. The variance was renewed, primarily at six-month intervals, until February 12, 2019.

Under the proposed rule, CHS would explicitly be able to share with DOC “specific diagnoses of injuries sustained by people while in custody ... for the limited purpose of investigating injuries” (§ 3-08(c)(3)(ii)(A)), mooted the need for a variance to that effect.

Section 3-08(c)(4)

Section 3-08(c)(4) of the current rules prohibits CHS from sharing individual's disease-specific information with DOC in cases where an individual has a communicable disease, mandating instead that CHS instruct DOC staff generally on proper precautions. Under the proposed rules, CHS would be able to disclose certain individual communicable disease diagnoses when an exposure has occurred at the facility and it is absolutely necessary for CHS to engage in contact tracing to protect the health and safety of exposed individuals; when such disclosures are made, CHS will be required to inform the Board within 24 hours.

Section 3-08(c)(7)(i)

Section 3-08(c)(7)(i) states that when a person in custody is transferred from one correctional facility to another within DOC's custody, the person's “complete health record shall be transferred simultaneously.” The proposed amendment revises this requirement to state that the person's “complete health record shall be maintained and available in each location.” This change is intended to bring the Standards in line with current Electronic Medical Record practices.

Proposed Rule § 3-16 (Injury Response)

Injury surveillance and data collection are important tools for identifying and protecting vulnerable patients and promoting public health in the jails.⁷ Proposed Minimum Standard § 3-16 aims to address the inconsistencies and deficiencies identified in BOC's Serious Injury Report by requiring, among other things, that:

- (1) DOC and CHS establish policies and procedures to address and prevent injuries to people in custody;
- (2) DOC's injury investigations, including all supporting documentation such as Injury Forms, be completed in a prompt, thorough, accurate, and objective manner;
- (3) DOC and CHS meet on a regular basis to review data on injuries;
- (4) within one year of the effective date of the rule, DOC and CHS maintain a coordinated electronic tracking system for serious injuries, and within two years of the effective date of the rule, they maintain a coordinated electronic system for serious and non-serious injuries;

⁷ Ross MacDonald, et al., *Operationalizing a Human Rights Agenda in Correctional Health*, 38 SGIM Forum 1, 12 (2015).

(5) commencing September 2019 and rolling out in three phases through late 2021, DOC and CHS release a joint, monthly public report of specified data on serious and non-serious injuries to people in custody; and

(6) on at least an annual basis, DOC review all joint, public, monthly reports for the last year and provide the Board with a written public report of its findings and any corrective actions.

The purpose of these new requirements is to improve DOC's and CHS's ability to address and prevent injuries to people in custody and strengthen the Board's oversight of the agencies' progress toward achieving this goal.

Authority

The Board's authority for these rules is found in section 1043 and 626 of the New York City Charter.

Proposed Rules

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

New material is underlined.

Deleted material is [bracketed.]

Section 1. Subdivision (a) of section 1-01 of Title 40 of the Rules of the City of New York is amended to read as follows:

a) Policy. [Prisoners] People in custody shall not be subject to discriminatory treatment based upon race, religion, nationality, sex, sexual orientation, gender, disability, age or political belief. The term ["prisoner"] “person in custody” means any person in the custody of the New York City Department of Correction ("the Department"). “Inmate” and “prisoner” both mean “person in custody” throughout this Title, and the Board will modernize to person-forward language in promulgating rules, so as to phase out the use of “inmate” and “prisoner”. "Detainee" means any [prisoner] person in custody awaiting disposition of a criminal charge. "Sentenced prisoner" means any [prisoner] person in custody serving a sentence of up to one year in Department custody.

§ 2. Section 3-08 of Title 40 of the Rules of the City of New York is amended to read as follows:

§ 3-08 Privacy and Confidentiality.

(a) Policy. The Health Authority shall establish and implement written policies and procedures which recognize the rights of [inmates] people in custody to private and confidential treatment and consultations consistent with legal requirements, professional standards, and sound professional judgment and practice.

(b) Privacy.

(1) All consultations and evaluations between [inmates] people in custody and health care personnel will be confidential and private.

(i) C[c]orrectional personnel may be present during the delivery of health services when health care and correctional personnel determine that such action is necessary for the safety and/or security of any person.

(ii) C[c]orrectional personnel shall remain sufficiently distant from the place of health care encounters so that quiet conversations between [inmates] people in custody and health care personnel cannot be overheard. Every effort shall be made to maintain aural and, where possible, visual privacy during encounters between health care personnel and [inmates] people in custody.

(2) The Health Authority shall not conduct body cavity searches or strip searches. The Health Authority also shall not conduct forensic evaluations of persons in custody for criminal prosecution or investigatory purposes, except in Forensic Psychiatric Evaluation Court Clinics (FPECCs).

(c) Confidentiality.

(1) Information obtained by health care personnel from [inmates] people in custody in the course of treatment or consultations shall be confidential except as provided in 40 RCNY § 3-03(b)(3)(iv) and 40 RCNY § 3-08(c)(3).

(i) A[a]ll professional standards and legal requirements pertaining to the physician-patient privilege apply.

(2) Active health records shall be maintained by health care personnel separately from the confinement record and shall be kept in a secure location.

(i) A[a]ccess to health records shall be controlled by the Health Authority.

(ii) H[h]ealth records shall not be released, communicated or otherwise made available to any person, except treatment personnel or as pursuant to a lawful court order, without the written authorization of the [inmates] person in custody, except in emergency situations described in 40 RCNY § 3-03(b)(3)(iv).

(3) Subject to applicable state and federal law, health care personnel may report a[n] [inmate's] person in custody's health information to [the chief correctional officer] correctional authorities without the written consent of the [inmates] person in custody only when such information is necessary[,] to provide appropriate health services [for] to the [inmate] person or to protect the health and safety of the [inmate] person or others. Disclosures made under this section shall not include:

(i) The entire health record;

(ii) Specific diagnoses, with the following exceptions:

(A) specific diagnoses of injuries sustained by people while in custody may be shared with correctional authorities for the limited purposes of investigating and identifying trends related to injuries;

(B) When an exposure to a specific communicable disease other than a common sexually transmitted infection has occurred in a facility, the Health Authority may disclose an individual's communicable disease diagnosis to correctional authorities for the limited purpose of contact tracing, and only when disclosing the identity of the individual is absolutely necessary to protect the health and safety of potentially exposed persons. In all other cases involving persons in custody with communicable diseases, the correctional authorities shall be instructed by health care personnel on proper precautions needed to protect correctional personnel and others without being told disease-specific diagnoses for individuals. Disclosures of individuals' communicable disease diagnoses made pursuant to this provision shall be reported to the Board in writing within 24 hours.

[Such information shall not include the specific diagnosis or the entire health record, but where necessary may include the following:

(i) the inmate's dietary restrictions and modifications, if any;

(ii) known allergies and/or communicable diseases of the inmate, if any; and

(iii) health information concerning an inmate's ability to work, placement in punitive segregation isolation, or hospitalization needs.]

[(4) If an inmate has a communicable disease, the correctional authorities shall be instructed by health care personnel on proper precautions needed to protect correctional personnel and other inmates without being told disease-specific diagnoses for individual inmates.]

[(5)4] Correctional personnel shall keep confidential any [inmate] health-related information or records of a person in custody that the officer receives from [forwarded to him by] health care personnel.

[(6)5] When a[n inmate] person in custody communicates health-related information to correctional personnel [in order] to obtain access to health services or treatment of a health condition, [then] correctional personnel shall keep such information [shall be kept] confidential [by correctional personnel]. [An inmate] People in custody need not disclose [his] their specific medical complaints to correction personnel [in order] to obtain medical assistance.

[(7)6] [In order] To assure continuity of care and [to] avoid unnecessary duplication of tests and examinations, a[n inmate's] person in custody's health information shall be made available to health care personnel when that [inmate] person is transferred to another correctional or health care facility.

(i) When a[n inmate] person in custody is transferred from one correctional facility to another within the New York City Department of Correction, the [inmate's] person's complete health record shall be [transferred simultaneously] maintained and available in each location.

(ii) When a[n inmate] person in custody is transferred to or from a municipal hospital ward, a pertinent summary of the [inmate's] person's health record shall accompany the transfer.

(iii) When a[n inmate] person in custody is transferred to another correctional system, a record summary defined by the receiving and sending systems shall accompany the [inmate] person.

(iv) Complete health record information shall be transferred to specific and designated physicians outside the jurisdiction of the Department of Correction upon the request and written authorization of the [inmate] person in custody for the release of such information. The release form must specify the information to be transferred.

(d) Experimentation.

(1) Biomedical, behavioral, pharmaceutical, and cosmetic research involving the use of any [inmate] person in [the] custody [of the New York City Department of Correction] shall be prohibited except where:

(i) the [inmate] person in custody has voluntarily given his/her informed consent pursuant to 40 RCNY § 3-06(j); and

(ii) all ethical, medical and legal requirements regarding human research are satisfied; and

(iii) the research satisfies all standards of design, control and safety; and

(iv) the Health Authority has approved the proposed research, in writing. [has been approved in writing from the Health Authority.]

(2) The use of a new medical protocol for individual treatment of a[n inmate] a person in custody by [his/her] the person's physician will not be prohibited, provided that such treatment is conducted subsequent to a full explanation to the person [inmate] of the positive and negative features of the treatment, [and] all requirements of § 3-06(j) regarding informed consent [are] have been satisfied, and [that] the protocol/treatment has been reviewed by the appropriate local and institutional review boards as required by [all] applicable Federal, State and local laws. As an example, the protocol must be reviewed by an established human research review committee with representation [of inmate] by advocates for people in custody.

§ 3. Chapter 3 of Title 40 of the Rules of the City of New York is amended by adding new section 3-16, to read as follows:

§ 3-16 Injury Response.

(a) Policy. The Department of Correction and the Health Authority (“Agencies”) shall establish policies and procedures to address and prevent injuries to people in custody.

(b) Investigations. Investigations of injuries of people in custody, including all supporting documentation such as Injury-to-Inmate forms, shall be completed in a prompt, accurate, and objective manner. For the purposes of this section, investigations shall mean investigations conducted in the manner required by the Department of Correction (“Department”) including, but not limited to, investigations conducted by the facility or investigations contained in Injury-to-Inmate forms.

(c) Coordination.

(1) Quarterly Meetings. The Agencies shall engage in regular communication and quarterly meetings, to review data on injuries, identify trends, and perform quality assurance on injury report documentation. These communications and quarterly meetings shall include data-informed development of corrective action plans.

(2) Injury Tracking System. Within one year of the effective date of this rule, the Agencies shall maintain a coordinated electronic injury tracking system for serious injuries, which for purposes of 40 RCNY § 3-16 are defined as injuries designated as serious by the Health Authority for the sole purpose of tracking injuries. Within two years of the effective date of this rule, the Agencies shall maintain a coordinated electronic injury tracking system for all injuries, both serious and non-serious.

(d) Reporting and Review.

(1) By the fourth Friday of September 2019 and on the fourth Friday of every month thereafter, the Department shall provide the Board with all Injury-to-Inmate forms (or any other injury reporting mechanism that may replace the Injury-to-Inmate form) created in the previous month and any forms updated in the previous month.

(2) The Agencies shall provide the Board with a joint, monthly, public report of data on injuries and serious injuries to people in custody ("Joint Monthly Injury Report"), as follows:

(i) Phase 1. Starting on the fourth Friday of September 2019 and on the fourth Friday of every month thereafter, the Joint Monthly Injury Report shall include the following information in a machine-readable format using both numerical values and percentages, for the previous month and for the year-to-date:

(A) The Health Authority's definition of serious injuries for that reporting period;

(B) A list of the Health Authority's injury reporting codes used during that reporting period;

(C) Total number of injury reports made, overall and disaggregated by treating facility;

(D) Total number and percentage of injuries presented to and total number confirmed by health care personnel, overall and disaggregated by treating facility, and then further disaggregated by serious and non-serious injuries;

(E) Age of persons with injuries confirmed by health personnel, overall and disaggregated by treating facility, disaggregated by serious and non-serious injuries, and then re-aggregated by age group (i.e. adolescents ages 16 and 17, young adults ages 18 to 21, and adults ages 22 and over);

(F) Whether persons with injuries presented to health personnel received or refused treatment, grouped and totaled by "received treatment" or "refused treatment," and then further disaggregated by serious and non-serious injuries;

(G) Mean, median, minimum, and maximum time between the time of Department Supervisor notification and the time of initial medical evaluation, overall and disaggregated by treating facility, and then further disaggregated by serious and non-serious injuries;

(H) Types of serious injuries as defined by the Health Authority, grouped and totaled by serious injury type, overall and disaggregated by treating facility;

(I) Types of non-serious injuries as defined by the Health Authority, grouped and totaled by injury type, overall and disaggregated by specific command;

(J) Bodily location of injuries, grouped and totaled by bodily location, overall and disaggregated by specific command, and then further disaggregated by serious and non-serious injuries;

(K) Cause of injuries as reported by the injured person to Health Authority, including self-injury, grouped and totaled by reported cause of injury, overall and disaggregated by treating facility, and then further disaggregated by serious and non-serious injuries;

(L) Total number of injuries reflecting self-injury, as determined by health care personnel, overall and disaggregated by serious and non-serious injuries;

(M) Injuries reflecting self-injury, disaggregated by age (adolescents ages 16 and 17, young adults ages 18 to 21, and adults ages 22 and older), and further disaggregated serious and non-serious injuries;

(N) Injuries reflecting self-injury, disaggregated by housing type, and further disaggregated serious and non-serious injuries;

(O) Any other information deemed notable by the Agencies.

(ii) Phase 2. Starting one year after the effective date of this rule, and continuing on the fourth Friday of every month thereafter for a period of one year, the Joint Monthly Injury

Report shall also include the following information in a machine-readable format using both numerical values and percentages, for the previous month and for the year-to-date:

(A) Locations within the commands where the serious injuries occurred, grouped and totaled by location, overall and disaggregated by specific command (i.e. facility, transportation, court);

(B) For serious injuries occurring in housing areas, the specific locations within the housing area where the injuries occurred, overall and disaggregated by specific command;

(C) Total number of pending facility investigations for serious injuries reported in the previous month, overall and disaggregated by specific command;

(D) Total number of completed investigations for serious injuries reported in the previous month, overall and disaggregated by specific command;

(E) Cause of serious injuries, including self-injury, as recorded in the facility investigation, grouped and totaled by cause of injury, overall and disaggregated by specific command;

(F) Mean, median, minimum, and maximum time between time of Department Supervisor notification and completion of facility investigation for all serious injuries reported in the previous month, overall and disaggregated by specific command;
and

(G) Whether incidents resulting in serious injuries were witnessed by the staff persons who completed the Injury to Inmate reports, grouped and totaled by “witnessed” or “not witnessed,” overall and disaggregated by specific command.

(iii) Phase 3. Starting two years after the effective date of this rule, and continuing on the fourth Friday of every month thereafter, the Joint Monthly Injury Report shall also include all information required pursuant to 40 RCNY §§ 3-16(d)(2)(ii)(A) - (B), (D) - (G) for serious and

non-serious injuries, in a machine-readable format using both numerical values and percentages, for the previous month and the year-to-date.

(3) Starting on the fourth Friday of September 2019, the Agencies shall provide the Board with a monthly data file with injury-level information corresponding to the data enumerated in the Joint Monthly Injury Report. This file shall also include all relevant identifying injury-level information (e.g., injury report number, Central Operations Desk/Use of Force report number, injury date, date of injury report, specific unit and housing area, housing area type, date investigation was closed, incarcerated person-identifiers, and witnessing-staff identifiers) for each injury reported. Each file shall be shared in an electronic, machine-readable format and shall be updated cumulatively from each prior data reporting period. The file shall be maintained as confidential by the Board.

(4) On at least an annual basis, beginning on the first day of the sixth month after the effective date of this Rule, the Department shall review all Joint Monthly Injury Reports submitted in the previous year pursuant to subdivision 40 RCNY § 3-16(d)(2). Within 60 days of each such annual review, the Department shall provide the Board with a written public report detailing:

(i) Steps taken in its review;

(ii) Findings, and any plans for corrective action; and

(iii) Status of corrective actions described in prior reports submitted over the past five years.

**NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-356-4028**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Amendment of Health Care Minimum Standards (Patient Confidentiality and Injury Reporting Requirements)

REFERENCE NUMBER: 2019 RG 010

RULEMAKING AGENCY: Board of Correction

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN
Acting Corporation Counsel

Date: 5/13/2019

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400**

**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

RULE TITLE: Amendment of Health Care Minimum Standards (Patient Confidentiality and Injury Reporting Requirements)

REFERENCE NUMBER: BOC-4

RULEMAKING AGENCY: Board of Correction

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Francisco X. Navarro
Mayor's Office of Operations

May 13, 2019
Date