

11291

I N A S S E M B L Y

May 25, 2010

Introduced by M. of A. PAULIN -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to tests performed for human immunodeficiency virus in situations involving occupational exposures to the human immunodeficiency virus

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 6 of section 2781 of the public health law is
2 amended by adding a new paragraph (e) to read as follows:

3 (E) IN SITUATIONS INVOLVING OCCUPATIONAL EXPOSURES WHICH CREATE A
4 SIGNIFICANT RISK OF CONTRACTING OR TRANSMITTING HIV INFECTION, AS
5 DEFINED IN REGULATIONS OF THE DEPARTMENT AND PURSUANT TO PROTOCOLS
6 ADOPTED BY THE DEPARTMENT,

7 (I) PROVIDED THAT:

8 (A) THE PERSON WHO IS THE SOURCE OF THE OCCUPATIONAL EXPOSURE IS
9 DECEASED, COMATOSE OR IS DETERMINED BY HIS OR HER ATTENDING HEALTH CARE
10 PROFESSIONAL TO LACK MENTAL CAPACITY TO CONSENT TO AN HIV RELATED TEST
11 AND IS NOT REASONABLY EXPECTED TO RECOVER IN TIME FOR THE EXPOSED PERSON
12 TO RECEIVE APPROPRIATE MEDICAL TREATMENT, AS DETERMINED BY THE EXPOSED
13 PERSON'S ATTENDING HEALTH CARE PROFESSIONAL WHO WOULD ORDER OR PROVIDE
14 SUCH TREATMENT;

15 (B) THERE IS NO PERSON AVAILABLE OR REASONABLY LIKELY TO BECOME AVAIL-
16 ABLE WHO HAS THE LEGAL AUTHORITY TO CONSENT TO THE HIV RELATED TEST ON
17 BEHALF OF THE SOURCE PERSON IN TIME FOR THE EXPOSED PERSON TO RECEIVE
18 APPROPRIATE MEDICAL TREATMENT; AND

19 (C) THE EXPOSED PERSON WILL BENEFIT MEDICALLY BY KNOWING THE SOURCE
20 PERSON'S HIV TEST RESULTS, AS DETERMINED BY THE EXPOSED PERSON'S HEALTH
21 CARE PROFESSIONAL AND DOCUMENTED IN THE EXPOSED PERSON'S MEDICAL RECORD;

22 (II) IN WHICH CASE

23 (A) A PROVIDER SHALL ORDER AN ANONYMOUS HIV TEST OF THE SOURCE PERSON;
24 AND

25 (B) THE RESULTS OF SUCH ANONYMOUS TEST, BUT NOT THE IDENTITY OF THE
26 SOURCE PERSON, SHALL BE DISCLOSED ONLY TO THE ATTENDING HEALTH CARE
27 PROFESSIONAL OF THE EXPOSED PERSON SOLELY FOR THE PURPOSE OF ASSISTING

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

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1 THE EXPOSED PERSON IN MAKING APPROPRIATE DECISIONS REGARDING POST-EXPO-
2 SURE MEDICAL TREATMENT; AND

3 (C) THE RESULTS OF THE TEST SHALL NOT BE DISCLOSED TO THE SOURCE
4 PERSON OR PLACED IN THE SOURCE PERSON'S MEDICAL RECORD.

5 S 2. This act shall take effect immediately.