S T A T E O F N E W Y O R K

7954

I N S E N A T E

May 26, 2010

Introduced by Sen. HANNON -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to HIV testing of certain persons who may be the source of an occupational exposure of another person

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

Section. Paragraphs (c) and (d) of subdivision 6 of section 2781 of the public health law, paragraph (c) as added by chapter 584 of the laws of 1988 and paragraph (d) as added by chapter 220 of the laws of 1996, are amended and a new paragraph (e) is added to read as follows:

(c) on a deceased person, when such test is conducted to determine the cause of death or for epidemiological purposes[.]; OR

(d) conducted pursuant to section twenty-five hundred-f of this chapter[.]; OR

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

(I) PROVIDED THAT:

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

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

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

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

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(II) IN WHICH CASE

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

(B) THE RESULTS OF SUCH ANONYMOUS TEST, BUT NOT THE IDENTITY OF THE SOURCE PERSON, SHALL BE DISCLOSED ONLY TO THE ATTENDING HEALTH CARE PROFESSIONAL OF THE EXPOSED PERSON SOLELY FOR THE PURPOSE OF ASSISTING THE EXPOSED PERSON IN MAKING APPROPRIATE DECISIONS REGARDING POST-EXPOSURE MEDICAL TREATMENT; AND

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

S 2. This act shall take effect September 1, 2010; provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.