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

6246

I N S E N A T E

(PREFILED)

January 8, 2014

Introduced by Sen. MARTINS -- 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 toxoplasmosis testing of pregnant women

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

Section 1. The public health law is amended by adding a new section 2523 to read as follows:

S 2523. TOXOPLASMOSIS TESTING. 1. DEFINITIONS. FOR PURPOSES OF THIS SECTION THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "ACUTE ACQUIRED TOXOPLASMOSIS" MEANS THE DISEASE CAUSED BY RECENT ACQUISITION OF T. GONDII.

(B) "HEALTH CARE FACILITY" OR "FACILITY" MEANS ANY HOSPITAL OR OTHER INSTITUTION THAT IS LICENSED OR OTHERWISE AUTHORIZED TO DELIVER HEALTH CARE SERVICES.

(C) "HEALTH CARE PROFESSIONAL" MEANS A PHYSICIAN LICENSED TO PRACTICE MEDICINE IN ALL ITS BRANCHES, A PHYSICIAN ASSISTANT WHO HAS BEEN DELEGATED THE PROVISION OF HEALTH SERVICES BY HIS OR HER SUPERVISING PHYSICIAN, OR AN ADVANCED PRACTICE REGISTERED NURSE WHO HAS WRITTEN COLLABORATIVE AGREEMENTS WITH A COLLABORATING PHYSICIAN THAT AUTHORIZES THE PROVISION OF HEALTH SERVICES.

(D) "HEALTH CARE SERVICES" MEANS ANY PRENATAL MEDICAL CARE OR LABOR DELIVERY SERVICES TO A PREGNANT WOMAN AND HER NEWBORN INFANT, INCLUDING HOSPITALIZATION.

(E) "IGG" MEANS IMMUNOGLOBULIN G, AN ANTIBODY DETERMINING THAT A PERSON IS INFECTED WITH T. GONDII.

(F) "T. GONDII" MEANS THE PARASITE TOXOPLASMA GONDII.

(G)"TOXOPLASMOSIS" MEANS THE DISEASE CAUSED BY T. GONDII.

2. REQUIRED TOXOPLASMOSIS COUNSELING AND OFFER OF TOXOPLASMOSIS TESTING. (A) EVERY HEALTH CARE PROFESSIONAL WHO PROVIDES HEALTH CARE SERVICES TO A PREGNANT WOMAN SHALL, UNLESS THE WOMAN HAS BEEN DIAGNOSED WITH TOXOPLASMA INFECTION THOUGH SEROLOGIC TESTING PRIOR TO THE CURRENT PREGNANCY, PROVIDE THE WOMAN WITH TOXOPLASMOSIS COUNSELING AND SHALL OFFER A TEST TO HER FOR T. GONDII.

(B) THE COUNSELING AND TESTING OR REFUSAL OF TESTING SHALL BE DOCUMENTED IN THE WOMAN'S MEDICAL RECORD. A REFUSAL OF SUCH TESTING SHALL BE

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

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IN WRITING. A HEALTH CARE PROFESSIONAL SHALL PROVIDE THE COUNSELING AND RECOMMEND THE TESTING AS EARLY IN THE WOMAN'S PREGNANCY AS POSSIBLE. FOR WOMEN WHO ARE NEGATIVE FOR ANTIBODIES TO T. GONDII, IGG TESTING SHALL CONTINUE THROUGHOUT PREGNANCY AT AN INTERVAL OF ONCE PER MONTH.

(C) THE HEALTH CARE FACILITY SHALL ADOPT A POLICY THAT PROVIDES THAT AS SOON AS POSSIBLE WITHIN MEDICAL STANDARDS AFTER THE INFANT'S BIRTH, THE MOTHER'S TOXOPLASMOSIS TEST RESULT, IF AVAILABLE, SHALL BE NOTED IN THE NEWBORN INFANT'S MEDICAL RECORD. IT SHALL ALSO BE NOTED IN THE NEWBORN INFANT'S MEDICAL RECORD IF THE MOTHER'S TOXOPLASMOSIS TEST RESULT IS NOT AVAILABLE BECAUSE SHE HAS NOT BEEN TESTED OR HAS DECLINED TESTING. ANY TESTING OR TEST RESULTS SHALL BE DOCUMENTED IN ACCORDANCE WITH CURRENT STANDARDS OF PATIENT CONFIDENTIALITY.

(D) EVERY HEALTH CARE PROFESSIONAL OR FACILITY CARING FOR A NEWBORN INFANT SHALL, UPON DELIVERY OR AS SOON AS POSSIBLE WITHIN MEDICAL STANDARDS AFTER THE INFANT'S BIRTH, PROVIDE COUNSELING TO THE PARENT OR GUARDIAN OF THE INFANT AND PERFORM TOXOPLASMOSIS TESTING ON THE INFANT WHEN THE TOXOPLASMOSIS STATUS OF THE INFANT'S MOTHER IS UNKNOWN OR WHEN THERE IS EVIDENCE OF ACUTE ACQUIRED TOXOPLASMOSIS.

(E) THE COUNSELING REQUIRED UNDER THIS SECTION MUST BE PROVIDED IN ACCORDANCE WITH THE FEDERAL HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT AND MUST INCLUDE ALL OF THE FOLLOWING:

(I) FOR THE HEALTH OF THE PREGNANT WOMAN, THE VOLUNTARY NATURE OF THE TESTING, THE BENEFITS OF TOXOPLASMOSIS TESTING, INCLUDING PREVENTION OF ACQUISITION AND TREATMENT, AND THE REQUIREMENT THAT TOXOPLASMOSIS TESTING BE PERFORMED UNLESS SHE REFUSES AND THE METHODS BY WHICH SHE CAN REFUSE;

(II) THE BENEFIT OF TOXOPLASMOSIS TESTING FOR HERSELF AND THE NEWBORN INFANT, INCLUDING INTERVENTIONS AND TREATMENT TO PREVENT TOXOPLASMOSIS;

(III) THE SIDE EFFECTS OF INTERVENTIONS TO PREVENT AND TREAT TOXOPLASMOSIS;

(IV) THE REQUIREMENT FOR MANDATORY TESTING OF THE NEWBORN IF THE MOTHER'S TOXOPLASMOSIS STATUS IS UNKNOWN AT THE TIME OF DELIVERY;

(V) AN EXPLANATION OF THE TEST, INCLUDING ITS PURPOSE, LIMITATIONS, AND THE MEANING OF ITS RESULTS;

(VI) AN EXPLANATION OF THE PROCEDURES TO BE FOLLOWED;

(VII) THE AVAILABILITY OF ADDITIONAL OR CONFIRMATORY TESTING, IF APPROPRIATE;

(VIII) COUNSELING MAY BE PROVIDED IN WRITING, VERBALLY, OR BY VIDEO, ELECTRONIC, OR OTHER MEANS. THE WOMAN MUST BE OFFERED AN OPPORTUNITY TO ASK QUESTIONS ABOUT TESTING AND TO DECLINE TESTING FOR HERSELF; AND

(IX) CONSENT FOR TESTING OF A NEWBORN INFANT SHALL BE PRESUMED WHEN A HEALTH CARE PROFESSIONAL OR HEALTH CARE FACILITY SEEKS TO PERFORM A TEST ON A NEWBORN INFANT WHOSE MOTHER'S TOXOPLASMOSIS STATUS IS UNKNOWN, PROVIDED THAT REQUIRED COUNSELING HAS TAKEN PLACE.

S 2. The commissioner of health is hereby authorized and directed to adopt necessary rules and regulations to implement the provisions of this act.

S 3. This act shall take effect on the first of January next succeeding the date on which it shall have become a law; 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 is authorized to be made and completed on or before such date.