

1286--A

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I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. ZEBROWSKI, MILLER, ENGLEBRIGHT, MAISEL, JAFFEE, ROSENTHAL, GIBSON, MILLMAN, TITONE, BENEDETTO, ROBERTS, GALEF, ROBINSON, BOYLAND, O'DONNELL, WEPRIN, HOOPER, STIRPE, RODRIGUEZ, GUNTHER, MOSLEY, GOTTFRIED, BRONSON -- Multi-Sponsored by -- M. of A. ABBATE, BRENNAN, CROUCH, GABRYSZAK, JACOBS, ORTIZ, PERRY, RABBITT, RIVERA, SALADINO, SIMANOWITZ, SWEENEY -- read once and referred to the Committee on Health -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the public health law, in relation to requiring hospitals to offer hepatitis C testing; and providing for the repeal of such provisions upon expiration thereof

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

1 Section 1. The public health law is amended by adding a new section
2 2171 to read as follows:
3 S 2171. REQUIRED OFFERING OF HEPATITIS C SCREENING TESTING. 1. EVERY
4 INDIVIDUAL BORN BETWEEN THE YEARS OF NINETEEN HUNDRED FORTY-FIVE AND
5 NINETEEN HUNDRED SIXTY-FIVE WHO RECEIVES HEALTH SERVICES AS AN INPATIENT
6 IN A GENERAL HOSPITAL DEFINED IN SUBDIVISION TEN OF SECTION TWENTY-EIGHT
7 HUNDRED ONE OF THIS CHAPTER OR WHO RECEIVES PRIMARY CARE SERVICES IN AN
8 OUTPATIENT DEPARTMENT OF SUCH HOSPITAL OR IN A DIAGNOSTIC AND TREATMENT
9 CENTER LICENSED UNDER ARTICLE TWENTY-EIGHT OF THIS CHAPTER OR FROM A
10 PHYSICIAN, PHYSICIAN ASSISTANT OR NURSE PRACTITIONER PROVIDING PRIMARY
11 CARE SHALL BE OFFERED A HEPATITIS C SCREENING TEST OR HEPATITIS C DIAG-
12 NOSTIC TEST UNLESS THE HEALTH CARE PRACTITIONER PROVIDING SUCH SERVICES
13 REASONABLY BELIEVES THAT:
14 (A) THE INDIVIDUAL IS BEING TREATED FOR A LIFE THREATENING EMERGENCY;
15 OR

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

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1 (B) THE INDIVIDUAL HAS PREVIOUSLY BEEN OFFERED OR HAS BEEN THE SUBJECT
2 OF A HEPATITIS C SCREENING TEST (EXCEPT THAT A TEST SHALL BE OFFERED IF
3 OTHERWISE INDICATED); OR

4 (C) THE INDIVIDUAL LACKS CAPACITY TO CONSENT TO A HEPATITIS C SCREEN-
5 ING TEST.

6 2. IF AN INDIVIDUAL ACCEPTS THE OFFER OF A HEPATITIS C SCREENING TEST
7 AND THE SCREENING TEST IS REACTIVE, THE HEALTH CARE PROVIDER SHALL
8 EITHER OFFER THE INDIVIDUAL FOLLOW-UP HEALTH CARE OR REFER THE INDIVID-
9 UAL TO A HEALTH CARE PROVIDER WHO CAN PROVIDE FOLLOW-UP HEALTH CARE. THE
10 FOLLOW-UP HEALTH CARE SHALL INCLUDE A HEPATITIS C DIAGNOSTIC TEST.

11 3. THE OFFERING OF HEPATITIS C SCREENING TESTING UNDER THIS SECTION
12 SHALL BE CULTURALLY AND LINGUISTICALLY APPROPRIATE IN ACCORDANCE WITH
13 RULES AND REGULATIONS PROMULGATED BY THE COMMISSIONER.

14 4. THIS SECTION SHALL NOT AFFECT THE SCOPE OF PRACTICE OF ANY HEALTH
15 CARE PRACTITIONER OR DIMINISH ANY AUTHORITY OR LEGAL OR PROFESSIONAL
16 OBLIGATION OF ANY HEALTH CARE PRACTITIONER TO OFFER A HEPATITIS C
17 SCREENING TEST OR HEPATITIS C DIAGNOSTIC TEST OR TO PROVIDE SERVICES OR
18 CARE FOR THE SUBJECT OF A HEPATITIS C SCREENING TEST OR HEPATITIS C
19 DIAGNOSTIC TEST.

20 5. DEFINITIONS. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL
21 HAVE THE FOLLOWING MEANINGS:

22 (A) "HEPATITIS C DIAGNOSTIC TEST" SHALL MEAN ANY LABORATORY TEST OR
23 TESTS THAT DETECT THE PRESENCE OF HEPATITIS C VIRUS IN THE BLOOD AND
24 PROVIDES CONFIRMATION OF WHETHER THE INDIVIDUAL HAS A HEPATITIS C VIRUS
25 INFECTION.

26 (B) "HEPATITIS C SCREENING TEST" SHALL MEAN ANY LABORATORY SCREENING
27 TEST OR TESTS THAT DETECT THE PRESENCE OF HEPATITIS C VIRUS ANTIBODIES
28 IN THE BLOOD.

29 (C) "PRIMARY CARE" MEANS THE MEDICAL FIELDS OF FAMILY MEDICINE, GENER-
30 AL PEDIATRICS, PRIMARY CARE, INTERNAL MEDICINE, PRIMARY CARE OBSTETRICS,
31 OR PRIMARY CARE GYNECOLOGY, WITHOUT REGARD TO BOARD CERTIFICATION.

32 S 2. On or before January 1, 2016, the commissioner of health shall
33 evaluate and report on the impact of this act with respect to the number
34 of persons who are screened for hepatitis C and the number of persons
35 who have accessed care following a positive test. Such report shall be
36 submitted to the governor and to the chairs of the assembly and senate
37 committees on health.

38 S 3. This act shall take effect on the first of January next succeed-
39 ing the date on which it shall have become a law and shall expire and be
40 deemed repealed January 1, 2020; provided, however, that the commission-
41 er of health is authorized to adopt rules and regulations necessary to
42 implement this act prior to such effective date.