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

2750--A

2013-2014 Regular Sessions

I N S E N A T E

January 23, 2013

Introduced by Sens. HANNON, ADAMS, BOYLE, CARLUCCI, FELDER, FUSCHILLO, HASSELL-THOMPSON, HOYLMAN, KRUEGER, MONTGOMERY, PARKER, PERKINS, SAMPSON, STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

Section 1. The public health law is amended by adding a new section 2171 to read as follows:

S 2171. REQUIRED OFFERING OF HEPATITIS C SCREENING TESTING. 1. EVERY INDIVIDUAL BORN BETWEEN THE YEARS OF NINETEEN HUNDRED FORTY-FIVE AND NINETEEN HUNDRED SIXTY-FIVE WHO RECEIVES HEALTH SERVICES AS AN INPATIENT IN A GENERAL HOSPITAL DEFINED IN SUBDIVISION TEN OF SECTION TWENTY-EIGHT HUNDRED ONE OF THIS CHAPTER OR WHO RECEIVES PRIMARY CARE SERVICES IN AN OUTPATIENT DEPARTMENT OF SUCH HOSPITAL OR IN A DIAGNOSTIC AND TREATMENT CENTER LICENSED UNDER ARTICLE TWENTY-EIGHT OF THIS CHAPTER OR FROM A PHYSICIAN, PHYSICIAN ASSISTANT OR NURSE PRACTITIONER PROVIDING PRIMARY CARE SHALL BE OFFERED A HEPATITIS C SCREENING TEST OR HEPATITIS C DIAGNOSTIC TEST UNLESS THE HEALTH CARE PRACTITIONER PROVIDING SUCH SERVICES REASONABLY BELIEVES THAT:

(A) THE INDIVIDUAL IS BEING TREATED FOR A LIFE THREATENING EMERGENCY; OR

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

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

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(C) THE INDIVIDUAL LACKS CAPACITY TO CONSENT TO A HEPATITIS C SCREENING TEST.

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

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

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

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

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

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

(C) "PRIMARY CARE" MEANS THE MEDICAL FIELDS OF FAMILY MEDICINE, GENERAL PEDIATRICS, PRIMARY CARE, INTERNAL MEDICINE, PRIMARY CARE OBSTETRICS, OR PRIMARY CARE GYNECOLOGY, WITHOUT REGARD TO BOARD CERTIFICATION.

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

S 3. This act shall take effect on the first of January next succeeding the date on which it shall have become a law and shall expire and be deemed repealed January 1, 2020; provided, however, that the commissioner of health is authorized to adopt rules and regulations necessary to implement this act prior to such effective date.