AN ACT to amend the public health law, in relation to HIV-related testing; and to amend the education law, in relation to screening for certain diseases

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

Section 1. Subdivisions 1, 2 and 3 of section 2781 of the public health law, as amended by section 2 of part A of chapter 60 of the laws of 2014, are amended to read as follows:

1. Except as provided in section three thousand one hundred twenty-one of the civil practice law and rules, or unless otherwise specifically authorized or required by a state or federal law, no person shall order the performance of an HIV related test without first [having received informed consent of the subject of the test who has capacity to consent or, when the subject lacks capacity to consent, of a person authorized pursuant to law to consent to health care for such individual. In order for there to be informed consent, the person ordering the test shall, prior to obtaining informed consent], at a minimum [advise], ORALLY ADVISING the protected individual, OR, WHEN THE PROTECTED INDIVIDUAL LACKS CAPACITY TO CONSENT, A PERSON AUTHORIZED TO CONSENT TO HEALTH CARE FOR SUCH INDIVIDUAL, that an HIV-related test is being performed, OR OVER THE OBJECTION OF SUCH INDIVIDUAL OR AUTHORIZED PERSONS. SUCH ADVISEMENT AND OBJECTION, WHEN APPLICABLE SHALL BE NOTED IN THE INDIVIDUAL'S RECORD.

2. [Informed consent for HIV related testing pursuant to this section shall be valid for such testing until such consent is revoked. Each time that an HIV related test is ordered pursuant to informed consent in accordance with this section, the physician or other person authorized pursuant to law to order the performance of the HIV related test, or such person's representative, shall orally notify the subject of the test or, when the subject lacks capacity to consent, a person authorized pursuant to law to consent to health care for such individual, that an

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.
HIV related test will be conducted at such time, and shall note the notification in the patient's record.

3. A person ordering the performance of an HIV related test shall provide either directly or through a representative to the subject of an HIV related test or, if the subject lacks capacity to consent, to a person authorized pursuant to law to consent to health care for the subject, an explanation that:

(a) HIV causes AIDS and can be transmitted through sexual activities and needle-sharing, by pregnant women to their fetuses, and through breastfeeding infants;
(b) there is treatment for HIV that can help an individual stay healthy;
(c) individuals with HIV or AIDS can adopt safe practices to protect uninfected and infected people in their lives from becoming infected or multiply infected with HIV;
(d) testing is voluntary and can be done anonymously at a public testing center;
(e) the law protects the confidentiality of HIV related test results;
(f) the law prohibits discrimination based on an individual's HIV status and services are available to help with such consequences; and
(g) the law [allows an individual's informed consent for HIV related testing to be valid for such testing until such consent is revoked by the subject of the HIV related test] REQUIRES THAT AN INDIVIDUAL BE ADVISED BEFORE AN HIV-RELATED TEST IS PERFORMED, AND THAT NO TEST SHALL BE PERFORMED OVER HIS OR HER OBJECTION.

Protocols shall be in place to ensure compliance with this section.

S 2. Subdivision 1 of section 2781-a of the public health law, as added by chapter 308 of the laws of 2010, is amended to read as follows:

1. Every individual [between the ages of] AGE thirteen and [sixty-four years] OLDER (or younger [or older] THAN THIRTEEN if there is evidence or indication of risk activity) who receives health services as an inpatient or in the emergency department of 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, nurse practitioner, or midwife providing primary care shall IN ACCORDANCE WITH SUBDIVISION ONE OF SECTION TWO THOUSAND SEVEN HUNDRED EIGHTY-ONE OF THIS ARTICLE be offered an HIV related 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 an HIV related test (except that a test shall be offered if otherwise indicated); or (c) the individual lacks capacity to consent to an HIV related test.

S 3. Subdivision 6 of section 6527 of the education law is amended by adding a new paragraph (g) to read as follows:

(G) SCREENING OF PERSONS AT INCREASED RISK OF SYPHILIS, GONORRHEA AND CHLAMYDIA.

S 4. Subdivision 4 of section 6909 of the education law is amended by adding a new paragraph (g) to read as follows:

(G) SCREENING OF PERSONS AT INCREASED RISK FOR SYPHILIS, GONORRHEA AND CHLAMYDIA.

S 5. Section 6527 of the education law is amended by adding a new subdivision 7-a to read as follows:
7-A. A LICENSED PHYSICIAN MAY PRESCRIBE AND ORDER A PATIENT SPECIFIC ORDER OR NON-PATIENT SPECIFIC ORDER TO A LICENSED PHARMACIST, PURSUANT TO REGULATIONS PROMULGATED BY THE COMMISSIONER IN CONSULTATION WITH THE COMMISSIONER OF HEALTH, AND CONSISTENT WITH THE PUBLIC HEALTH LAW, FOR DISPENSING UP TO A SEVEN DAY STARTER PACK OF HIV POST-EXPOSURE PROPHYLAXIS FOR THE PURPOSE OF PREVENTING HUMAN IMMUNODEFICIENCY VIRUS INFECTION FOLLOWING A POTENTIAL HUMAN IMMUNODEFICIENCY VIRUS EXPOSURE.

S 6. Section 6909 of the education law is amended by adding a new subdivision 8 to read as follows:

8. A CERTIFIED NURSE PRACTITIONER MAY PRESCRIBE AND ORDER A PATIENT SPECIFIC ORDER OR NON-PATIENT SPECIFIC ORDER TO A LICENSED PHARMACIST, PURSUANT TO REGULATIONS PROMULGATED BY THE COMMISSIONER IN CONSULTATION WITH THE COMMISSIONER OF HEALTH, AND CONSISTENT WITH THE PUBLIC HEALTH LAW, FOR DISPENSING UP TO A SEVEN DAY STARTER PACK OF HIV POST-EXPOSURE PROPHYLAXIS FOR THE PURPOSE OF PREVENTING HUMAN IMMUNODEFICIENCY VIRUS INFECTION FOLLOWING A POTENTIAL HUMAN IMMUNODEFICIENCY VIRUS EXPOSURE.

S 7. Section 6801 of the education law is amended by adding a new subdivision 5 to read as follows:

5. A LICENSED PHARMACIST MAY EXECUTE A NON-PATIENT SPECIFIC ORDER, FOR DISPENSING UP TO A SEVEN DAY STARTER PACK OF HIV POST-EXPOSURE PROPHYLAXIS MEDICATIONS FOR THE PURPOSE OF PREVENTING HUMAN IMMUNODEFICIENCY VIRUS INFECTION, BY A PHYSICIAN LICENSED IN THIS STATE OR NURSE PRACTITIONER CERTIFIED IN THIS STATE, PURSUANT TO RULES AND REGULATIONS PROMULGATED BY THE COMMISSIONER IN CONSULTATION WITH THE COMMISSIONER OF HEALTH FOLLOWING A POTENTIAL HUMAN IMMUNODEFICIENCY VIRUS EXPOSURE.

S 8. This act shall take effect immediately; provided, however, the amendments to section 6801 of the education law made by section seven of this act shall not affect the expiration of such section and shall be deemed to expire therewith.