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

7885

I N S E N A T E

May 20, 2016

Introduced by Sen. HANNON -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law and the education law, in relation to HIV prevention and care

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

Section 1. Section 2135 of the public health law, as amended by section 3 of part A of chapter 60 of the laws of 2014, is amended to read as follows:

S 2135. Confidentiality. All reports or information secured by the department, municipal health commissioner or district health officer under the provisions of this title shall be confidential except: (a) in so far as is necessary to carry out the provisions of this title; (b) when used in the aggregate, without patient specific identifying information, in programs approved by the commissioner for the improvement of the quality of medical care provided to persons with HIV/AIDS; (c) when used within the state or local health department by public health disease programs to assess co-morbidity or completeness of reporting and to direct program needs, in which case patient specific identifying information shall not be disclosed outside the state or local health department; or (d) when used for purposes of patient linkage and retention in care, patient specific identified information, INCLUDING INFORMATION AS TO THE DEGREE TO WHICH PERSONS WITH HIV ARE IN CARE OR OUT OF CARE, may be shared between local and state health departments [and], health care providers [currently treating the patient], CARE COORDINATORS AND OTHER HEALTH AND HEALTH INFORMATION ENTITIES as DEFINED AND approved by the commissioner.

S 2. The public health law is amended by adding a new section 2781-b to read as follows:

S 2781-B. ACCESS TO HIV/AIDS TESTING, PREVENTION AND TREATMENT FOR MINORS. A HEALTH CARE PROVIDER LICENSED, CERTIFIED OR OTHERWISE AUTHORIZED TO PRACTICE UNDER TITLE EIGHT OF THE EDUCATION LAW, ACTING WITHIN HIS OR HER LAWFUL SCOPE OF PRACTICE, MAY, CONSISTENT WITH THIS ARTICLE,

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

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TEST, DIAGNOSE, REFER, TREAT AND PRESCRIBE FOR HIV INFECTION, HIV RELATED ILLNESS, AND AIDS, INCLUDING PREVENTIVE TREATMENT, TO AN INDIVIDUAL UNDER EIGHTEEN YEARS OF AGE WHO HAS CAPACITY TO CONSENT AND WHO HAS BEEN, MAY HAVE BEEN, OR IS AT RISK OF BEING EXPOSED TO HIV. TESTING, DIAGNOSIS, REFERRAL, TREATMENT AND PRESCRIBING UNDER THIS SECTION MAY BE PROVIDED WITHOUT THE CONSENT OR KNOWLEDGE OF THE PARENT OR GUARDIAN OF THE INDIVIDUAL. HEALTH RECORDS AND OTHER INFORMATION CONCERNING SUCH TESTING, DIAGNOSIS, REFERRAL, TREATMENT OR PRESCRIBING SHALL BE CONFIDENTIAL HIV RELATED INFORMATION AND SHALL NOT BE DISCLOSED EXCEPT AS PROVIDED IN THIS ARTICLE. A PERSON UNDER THE AGE OF EIGHTEEN YEARS MAY ALSO CONSENT TO BE ENROLLED IN A HEALTH HOME OR OTHER FORM OF CARE COORDINATION.

S 3. Subdivisions 1 and 2 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], ADVISING the protected individual that an HIV-related test is being performed.

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 HIV related test will be conducted at such time, and shall note the notification in the patient's record.] A PERSON AUTHORIZED PURSUANT TO LAW TO PERFORM HIV TESTING MAY PERFORM A TEST AFTER THE SUBJECT OF THE TEST IS NOTIFIED THAT HIV TESTING WILL BE PERFORMED UNLESS THE INDIVIDUAL DECLINES OR A PERSON AUTHORIZED TO CONSENT TO HEALTH CARE FOR SUCH INDIVIDUAL DECLINES.

S 4. 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] AND 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 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 5. 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 6. 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 7. 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 MEDICATIONS FOR THE PURPOSE OF PREVENTING HUMAN IMMUNODEFICIENCY VIRUS INFECTION.

S 8. 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 MEDICATIONS FOR THE PURPOSE OF PREVENTING HUMAN IMMUNODEFICIENCY VIRUS INFECTION.

S 9. 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 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.

S 10. This act shall take effect immediately; provided, however, that the amendments to section 6801 of the education law made by section nine of this act shall not affect the expiration of such section and shall be deemed to expire therewith.