

# STATE OF NEW YORK

10380

## IN ASSEMBLY

May 4, 2020

Introduced by M. of A. L. ROSENTHAL -- read once and referred to the  
Committee on Higher Education

AN ACT to amend the public health law and the education law, in relation  
to providing course work and training in HIV testing practices

The People of the State of New York, represented in Senate and Assem-  
bly, do enact as follows:

1 Section 1. The public health law is amended by adding a new section  
2 239-c to read as follows:

3 § 239-c. Course work or training in HIV testing practices. (a) Every  
4 physician, physician assistant and specialist assistant practicing in  
5 the state shall, on or before July first, two thousand twenty-one and  
6 every four years thereafter, complete course work or training, appropri-  
7 ate to the professional's practice, approved by the department regarding  
8 human immunodeficiency virus (HIV) testing practices. Such training  
9 shall include best practices for discussing routes and risks of HIV and  
10 STI transmission, advising as to the benefits of testing, the concept of  
11 informed consent, and working with allied health professionals and  
12 trained peer health educators to facilitate testing upon consent. The  
13 trainings shall be conducted in accordance with regulatory standards  
14 promulgated by the department in consultation with the department of  
15 education, to facilitate the testing of HIV in the course of profes-  
16 sional practice. Such course work or training shall also be completed by  
17 every medical student, medical resident and physician assistant student  
18 in the state as part of the orientation programs conducted by medical  
19 schools, medical residency programs and physician assistant programs.

20 (b) Every physician, physician assistant, specialist assistant,  
21 medical student, medical resident and physician assistant student must  
22 provide to the department documentation demonstrating the completion of  
23 and competence in the course work or training required under subdivision  
24 (a) of this section, provided however, that physicians subject to the  
25 provisions of paragraph (f) of subdivision one of section twenty-eight  
26 hundred five-k of this chapter shall not be required to provide such  
27 documentation to the department.

28 (c) The department shall provide an exemption from the requirements  
29 imposed by subdivision (a) of this section to anyone who requests such  
30 an exemption and who (i) clearly demonstrates to the department's satis-  
31 faction that there would be no need for him or her to complete such

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

LBD15873-01-0

1 course work or training because of the nature of his or her practice or  
2 (ii) that he or she has completed course work or training deemed by the  
3 department to be equivalent to the standards for course work or training  
4 approved by the department pursuant to this section. An individual  
5 granted an exemption must reapply to continue such exemption every four  
6 years.

7 (d) The department shall consult with organizations representative of  
8 professions, institutions, persons living with HIV, and those with  
9 expertise in issues of consent and medical ethics with respect to the  
10 regulatory standards promulgated pursuant to this section. On or before  
11 September first, two thousand thirty, and periodically thereafter as  
12 determined necessary by the commissioner, the department, including its  
13 patient safety center, in consultation with the council on graduate  
14 medical education, shall review and revise the content of the course  
15 work or training in HIV testing practices as necessary to ensure that  
16 such content: (i) reflects the current infection control practices and  
17 standards accepted and promoted by the medical and scientific communi-  
18 ties; (ii) focuses particular attention on instruction in standards of  
19 practice for which compliance is suboptimal based on the department's  
20 experience; and (iii) emphasizes the importance of working with allied  
21 health care professionals and staff, including nurses, patient aides,  
22 and peer health educators, in implementing best practices in testing and  
23 advising.

24 § 2. The education law is amended by adding a new section 6505-d to  
25 read as follows:

26 § 6505-d. Course work or training in HIV testing practices. Every  
27 registered nurse and licensed practical nurse practicing in the state  
28 shall, on or before July first, two thousand twenty-one and every four  
29 years thereafter, complete course work or training, appropriate to the  
30 professional's practice, approved by the department regarding human  
31 immunodeficiency virus (HIV) testing practices, in accordance with regu-  
32 latory standards promulgated by the department in consultation with the  
33 department of health, which shall be consistent, as far as appropriate,  
34 with such standards adopted by the department of health pursuant to  
35 section two hundred thirty-nine of the public health law. Each profes-  
36 sional shall document to the department at the time of registration,  
37 commencing with the first registration after July first, two thousand  
38 twenty-one, that such professional has completed the course work or  
39 training in accordance with this section, provided, however, that a  
40 professional subject to the provisions of paragraph (f) of subdivision  
41 one of section twenty-eight hundred five-k of the public health law  
42 shall not be required to submit such document. The department shall  
43 provide an exemption from the requirements imposed by this section to  
44 anyone who requests such an exemption and who (i) clearly demonstrates  
45 to the department's satisfaction that there would be no need for him or  
46 her to complete such course work or training because of the nature of  
47 his or her practice or (ii) that he or she has completed course work or  
48 training deemed by the department to be equivalent to the standards for  
49 course work or training approved by the department pursuant to this  
50 section. The department shall consult with organizations representative  
51 of professions, institutions, persons living with HIV, and those with  
52 expertise in issues of consent and medical ethics with respect to the  
53 regulatory standards promulgated pursuant to this section.

54 § 3. This act shall take effect immediately.