§ 2781-a. Required offering of HIV related testing. 1. Every individual age thirteen and older (or younger 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.

2. As used in this section, "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.

3. The offering of HIV related 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 an HIV related test or to provide services or care for the subject of an HIV related test.