

ASSEMBLY, No. 971

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington)

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District 37 (Bergen)

SYNOPSIS

Requires hospital, bio-analytical, and clinical laboratories to provide information and offer of HIV screening to patients living in areas with high prevalence of HIV.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning HIV screenings and supplementing Title 26 of
2 the Revised Statutes.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6

7 1. a. Pursuant to a standing order issued by its chief medical
8 officer, a general hospital licensed pursuant to P.L.1971, c.136
9 (C.26:2H-1 et seq.), when providing laboratory services on an
10 outpatient basis to an individual who resides in an area with a high
11 prevalence of human immunodeficiency virus (HIV), shall, upon
12 registration, provide the individual with a verbal and written statement
13 of the federal Centers for Disease Control and Prevention (CDC)
14 policy regarding HIV, and offer to provide an HIV screening test to
15 that individual. If the individual consents to undergo an HIV
16 screening test pursuant to this subsection, the hospital laboratory shall
17 perform the HIV screening test and transmit the test results to the
18 health care provider rendering the referral for laboratory services. The
19 standing order shall designate a process for an appropriate member of
20 the hospital staff to contact an individual who tests positive for HIV in
21 a screening test performed pursuant to this subsection, so as to advise
22 the individual of the test results, provide the individual with
23 information concerning counseling services, resources, and programs
24 for people with HIV, and to encourage the individual to seek
25 appropriate follow-up care. A diagnosed case of HIV shall be reported
26 to the Department of Health pursuant to, and records of the diagnosis
27 shall be held confidential as required by, P.L.1989, c.303 (C.26:5C-
28 5 et seq.).

29 b. Pursuant to a standing order issued by its chief medical officer
30 or an equivalent officer, a bio-analytical or clinical laboratory, when
31 providing laboratory services to an individual who resides in an area
32 with a high prevalence of HIV who was referred for laboratory
33 services by a health care professional licensed pursuant to Title 45 of
34 the Revised Statutes, shall, upon registration, provide the individual
35 with a verbal and written statement of CDC policy regarding HIV
36 screening and offer to provide an HIV screening test to that individual.
37 If the individual consents to undergo an HIV screening test pursuant to
38 this subsection, the laboratory shall perform the HIV screening test
39 and transmit the test results to the health care professional who
40 provided the referral for laboratory services. A diagnosed case of HIV
41 shall be reported to the Department of Health pursuant to, and records
42 of the diagnosis shall be held confidential as required by, P.L.1989,
43 c.303 (C.26:5C-5 et seq.).

44 c. This section shall not affect the scope of practice of any health
45 care professional or diminish any authority or legal or professional
46 obligation of any health care professional to offer an HIV screening

1 test, or to provide services or health care for the individual who is
2 subject to an HIV screening test.

3 d. A hospital, bio-analytical, or clinical laboratory shall not be
4 required to provide an individual with a statement of CDC policy
5 regarding HIV screening and offer to provide an HIV screening test to
6 the individual pursuant to this section if, upon a review of the
7 laboratory's records, it is determined the individual has been tested for
8 HIV within the past four months.

9 e. In the event that a laboratory that performs an HIV screening
10 test pursuant to subsection a. or b. of this section is out-of-network
11 with respect to a covered person's health benefits plan, the carrier shall
12 reimburse the laboratory for the cost of the screening test at the
13 carrier's in-network rate, or in any other reasonable amount as agreed
14 upon by the laboratory and the carrier, less any applicable copayment,
15 coinsurance, or deductible. In no case shall the laboratory bill the
16 covered person for the screening test, except for the covered person's
17 applicable copayment, coinsurance, or deductible.

18 f. The Commissioner of Health shall review HIV incidence rates
19 throughout the State and shall generate a list of locations in the State
20 with a high prevalence of HIV infection, which shall be updated
21 quarterly or at such other intervals as the commissioner deems
22 appropriate, and shall be made available through the Department of
23 Health's Internet website. This list shall be used by hospital, bio-
24 analytical, and clinical laboratories for the purpose of determining
25 whether to provide an individual with a statement of CDC policy
26 regarding HIV screening and offering to provide an HIV screening test
27 pursuant to this section.

28 g. The commissioner shall evaluate the impact of the provisions
29 of this section with respect to the number of individuals who are
30 screened for HIV, and the number of individuals who have accessed
31 health care, counseling, or other resources, programs, or services
32 following a positive test. No later than one year after the effective date
33 of this act, the Commissioner of Health shall submit a report of the
34 evaluation to the Governor and, pursuant to section 2 of P.L.1991,
35 c.164 (C.52:14-19.1), to the Legislature.

36 h. As used in this section:

37 "Carrier" means a carrier as defined in section 2 of P.L.1997, c.192
38 (C.26:2S-2).

39 "Health benefits plan" means a health benefits plan as defined in
40 section 2 of P.L.1997, c.192 (C.26:2S-2), the State Health Benefits
41 Program established pursuant to the "State Health Benefits Program
42 Act," P.L.1961, c.49 (C.52:14-17.25 et seq.), and the School
43 Employees' Health Benefits Program established pursuant to the
44 "School Employees' Health Benefits Program Act," sections 31
45 through 41 of P.L.2007, c.103 (C.54:14-17.46.1 through C.52:14-
46 17.46.11).

1 2. The Commissioner of Health shall, pursuant to the
2 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-
3 1 et seq.), adopt such rules and regulations as may be necessary to
4 implement the provisions of this act.

5
6 3. This act shall take effect 60 days after the date of enactment.
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9 STATEMENT
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11 This bill requires hospital, bio-analytical, and clinical laboratories
12 to, pursuant to a standing order issued by the chief medical officer of
13 the laboratory, provide individuals who reside in an area with a high
14 prevalence of human immunodeficiency virus (HIV) with a verbal and
15 written statement of the federal Centers for Disease Control and
16 Prevention (CDC) policy regarding HIV, and offer to provide an HIV
17 screening test to that individual. If the individual consents to undergo
18 an HIV screening test, the laboratory is to perform the test and
19 transmit the test results to the health care provider rendering the
20 referral for laboratory services.

21 In the case of a hospital laboratory, the standing order will be
22 required to designate a process for an appropriate member of the
23 hospital staff to contact an individual who tests positive for HIV, so as
24 to advise the individual of the test results, provide the individual with
25 information concerning counseling services, resources, and programs,
26 and to encourage the individual to seek appropriate follow-up care.

27 Diagnosed cases of HIV are to be reported to, and held confidential
28 by, the Department of Health (DOH) in accordance with current law as
29 set forth at P.L.1989, c.303 (C.26:5C-5 et seq.).

30 Nothing in the bill is to affect the scope of practice of any health
31 care professional or diminish any authority or legal or professional
32 obligation of any health care professional to offer an HIV screening
33 test, or to provide services or health care for the individual who is
34 subject to an HIV screening test.

35 A hospital, bio-analytical, or clinical laboratory is not to be
36 required to provide an individual with a statement of the CDC policy
37 regarding HIV screening and offer to provide an HIV screening test to
38 the individual pursuant to the bill if, upon a review of the laboratory’s
39 records, it is determined the individual was tested for HIV within the
40 past four months.

41 In the event that a laboratory that performs an HIV screening test
42 under the bill is out-of-network with respect to a covered person’s
43 health benefits plan, the carrier is to reimburse the laboratory for the
44 cost of the screening test at the carrier’s in-network rate, or in any
45 other reasonable amount as agreed upon by the laboratory and the
46 carrier, less any applicable copayment, coinsurance, or deductible. In
47 no case may a laboratory bill a covered person for the screening test,

1 except for the covered person's applicable copayment, coinsurance, or
2 deductible.

3 The Commissioner of Health will be required to review HIV
4 incidence rates throughout the State and generate a list of locations in
5 the State with a high prevalence of HIV infection. The list is to be
6 updated quarterly or at such other intervals as the commissioner deems
7 appropriate, and will be made available through the DOH Internet
8 website for laboratories to use for the purpose of determining whether
9 to provide an individual with a statement of CDC policy regarding
10 HIV screening and offer to provide an HIV screening test pursuant to
11 the bill.

12 The commissioner will be required to evaluate the impact of the bill
13 with respect to the number of individuals who are screened for HIV
14 and the number of individuals who have accessed health care,
15 counseling, or other resources, programs, or services following a
16 positive test. No later than one year after the effective date of the bill,
17 the commissioner will be required to submit a report of the evaluation
18 to the Governor and to the Legislature.