

SENATE, No. 1085

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JANUARY 30, 2020

Sponsored by:

Senator JOSEPH F. VITALE

District 19 (Middlesex)

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

As introduced.



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
13 statement of the federal Centers for Disease Control and Prevention
14 (CDC) policy regarding HIV, and offer to provide an HIV screening
15 test to that individual. If the individual consents to undergo an HIV
16 screening test pursuant to this subsection, the hospital laboratory
17 shall perform the HIV screening test and transmit the test results to
18 the health care provider rendering the referral for laboratory
19 services. The standing order shall designate a process for an
20 appropriate member of the hospital staff to contact an individual
21 who tests positive for HIV in a screening test performed pursuant to
22 this subsection, so as to advise the individual of the test results,
23 provide the individual with information concerning counseling
24 services, resources, and programs for people with HIV, and to
25 encourage the individual to seek appropriate follow-up care. A
26 diagnosed case of HIV shall be reported to the Department of
27 Health pursuant to, and records of the diagnosis shall be held
28 confidential as required by, P.L.1989, c.303 (C.26:5C-5 et seq.).

29 b. Pursuant to a standing order issued by its chief medical
30 officer or an equivalent officer, a bio-analytical or clinical
31 laboratory, when providing laboratory services to an individual who
32 resides in an area with a high prevalence of HIV who was referred
33 for laboratory services by a health care professional licensed
34 pursuant to Title 45 of the Revised Statutes, shall, upon registration,
35 provide the individual with a verbal and written statement of CDC
36 policy regarding HIV screening and offer to provide an HIV
37 screening test to that individual. If the individual consents to
38 undergo an HIV screening test pursuant to this subsection, the
39 laboratory shall perform the HIV screening test and transmit the test
40 results to the health care professional who provided the referral for
41 laboratory services. A diagnosed case of HIV shall be reported to
42 the Department of Health pursuant to, and records of the diagnosis
43 shall be held confidential as required by, P.L.1989, c.303 (C.26:5C-
44 5 et seq.).

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

1 HIV screening test, or to provide services or health care for the
2 individual who is 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
6 to the individual pursuant to this section if, upon a review of the
7 laboratory's records, it is determined the individual has been tested
8 for 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
19 rates throughout the State and shall generate a list of locations in
20 the State with a high prevalence of HIV infection, which shall be
21 updated quarterly or at such other intervals as the commissioner
22 deems appropriate, and shall be made available through the
23 Department of Health's Internet website. This list shall be used by
24 hospital, bio-analytical, and clinical laboratories for the purpose of
25 determining whether to provide an individual with a statement of
26 CDC policy regarding HIV screening and offering to provide an
27 HIV screening test pursuant to this section.

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

6 3. This act shall take effect 60 days after the date of enactment.

STATEMENT

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

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

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

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

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

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

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

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

12 The commissioner will be required to evaluate the impact of the
13 bill with respect to the number of individuals who are screened for
14 HIV 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
17 bill, the commissioner will be required to submit a report of the
18 evaluation to the Governor and to the Legislature.