

ASSEMBLY, No. 3831

STATE OF NEW JERSEY

218th LEGISLATURE

INTRODUCED APRIL 12, 2018

Sponsored by:

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

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District 37 (Bergen)

SYNOPSIS

Requires hospitals and health care professionals to offer hepatitis C testing to certain individuals; authorizes certain laboratories to perform rapid hepatitis C testing.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 7/31/2018)

1 AN ACT concerning hepatitis C testing and supplementing Title 26
2 and Title 45 of 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. As used in this section:

8 “Hepatitis C diagnostic test” means a laboratory test that detects
9 the presence of hepatitis C virus in the blood and provides
10 confirmation of whether the individual tested has a hepatitis C
11 infection.

12 “Hepatitis C screening test” means a U.S. Food and Drug
13 Administration-approved test, including a rapid point-of-care test, that
14 detects the presence of hepatitis C virus antibodies in the blood.

15 b. A general hospital licensed pursuant to P.L.1971, c.136
16 (C.26:2H-1 et seq.), or a health care professional licensed pursuant to
17 Title 45 or 52 of the Revised Statutes, shall, when providing a health
18 care service to an individual who was born between 1945 and 1965,
19 and except as provided in subsection c. of this section, offer a hepatitis
20 C screening test to that individual, unless the health care professional
21 with primary responsibility for the treatment and care of the individual
22 reasonably believes that the individual:

23 (1) is being treated for a life threatening emergency;

24 (2) has previously been offered or has been the subject of a
25 hepatitis C screening test; or

26 (3) lacks capacity to provide general consent to medical care.

27 c. Notwithstanding the provisions of subsection b. of this section
28 to the contrary, a nursing home or other long-term care facility
29 licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), or a health
30 care professional licensed pursuant to Title 45 or 52 of the Revised
31 Statutes who is employed by a nursing home or other long-term care
32 facility, shall, when providing a health care service to an individual
33 who was born between 1945 and 1965, offer to arrange a hepatitis C
34 screening test for that individual, either by setting up a screening test
35 appointment with an appropriate health care professional or general
36 hospital, or by arranging for a mobile laboratory or other laboratory
37 site to provide the screening test, except in those cases where the
38 health care professional with primary responsibility for the treatment
39 and care of the individual reasonably believes that the individual
40 satisfies one of the conditions identified in paragraphs (1) through (3)
41 of subsection b. of this section.

42 d. (1) If an individual accepts an offer for a hepatitis C screening
43 test, as provided by subsection b. of this section, and the screening test
44 is positive, the hospital or health care professional shall either offer the
45 individual follow-up care or refer the individual to a health care
46 provider who can provide follow-up care.

1 (2) If an individual accepts an offer for the arrangement of a
2 hepatitis C screening test, as provided by subsection c. of this section,
3 and the screening test is positive, the person or entity providing the
4 screening test pursuant to the arrangement shall either offer the
5 individual follow-up care or refer the individual to a health care
6 provider who can provide follow-up care.

7 (3) The follow-up care that is provided pursuant to this
8 subsection shall include a hepatitis C diagnostic test.

9 e. (1) The offer that is made pursuant to this section shall be
10 culturally and linguistically appropriate in accordance with regulations
11 promulgated by the Commissioner of Health.

12 (2) The general informed consent to medical care, which has
13 been provided by a person who is offered a hepatitis C diagnostic or
14 screening test pursuant to this section, shall constitute sufficient
15 consent for such test. No additional or separate consents, or any
16 related documentation, shall be required.

17 f. This section shall not affect the scope of practice of any health
18 care professional or diminish any authority or legal or professional
19 obligation of any health care professional to offer a hepatitis C
20 screening or diagnostic test, or to provide services or health care for
21 the individual who is subject to a hepatitis C screening or diagnostic
22 test.

23 g. The Commissioner of Health shall evaluate the impact of the
24 provisions of this section with respect to the number of individuals
25 who are screened for hepatitis C and the number of individuals who
26 have accessed care following a positive test. No later than one year
27 after the date of enactment, the Commissioner of Health shall submit a
28 report of the evaluation to the Governor, and to the Legislature
29 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1).

30
31 2. The Commissioner of Health, in consultation with the Public
32 Health Council in the Department of Health, shall adopt regulations,
33 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
34 (C.52:14B-1 et seq.), to permit any laboratory site that has a current
35 Clinical Laboratory Improvement Amendments Certificate of
36 Waiver issued by the federal Centers for Medicare & Medicaid
37 Services to perform rapid point-of-care tests for hepatitis C virus
38 licensed by the federal Food and Drug Administration.

39
40 3. The Commissioner of Health, pursuant to the
41 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
42 seq.), shall adopt rules and regulations necessary to effectuate the
43 purposes of this act.

44
45 4. This act shall take effect on the first day of January next
46 following the date of enactment, except that the Commissioner of
47 Health may take such anticipatory administrative action in advance of

1 the effective date as shall be necessary for the implementation of this
2 act. Section 1 of this act shall expire and be deemed repealed on
3 January 1 of the fifth year next following the date of enactment.

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5
6 STATEMENT
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8 This bill requires hospitals and health care professionals who are
9 not employed by nursing homes or other long-term care facilities to
10 offer hepatitis C testing to individuals born between 1945 and 1965,
11 and it requires nursing homes and other long-term care facilities, as
12 well as the health care professionals employed thereby, to offer to
13 arrange for the provision of hepatitis C testing to individuals born
14 between 1945 and 1965, either by setting up a screening test
15 appointment with an appropriate health care professional or general
16 hospital, or by arranging for a mobile laboratory or other laboratory
17 site to provide the screening test.

18 Pursuant to the bill's provisions, when providing health care
19 services to an individual born between 1945 and 1965, a hospital or a
20 health care professional (not employed by a nursing home) would be
21 required to offer a hepatitis C screening test to the individual, and a
22 nursing home or other long-term care facility, or a health care
23 professional employed thereby, would be required to offer to arrange
24 for the provision of a hepatitis C screening test to the individual,
25 unless the health care professional who has primary responsibility for
26 the treatment and care of the individual reasonably believes that the
27 individual: (1) is being treated for a life threatening emergency; (2)
28 has previously been offered or has been the subject of a hepatitis C
29 screening test; or (3) lacks capacity to consent to a hepatitis C
30 screening test.

31 If an individual accepts an offer under the bill, and the results of
32 the hepatitis C screening test are positive, the person or entity
33 performing the test would be required to provide appropriate follow-up
34 care, including a confirmation test, or refer the patient to a health care
35 professional to provide follow-up care.

36 The bill requires an offer that is made under its provisions to be
37 culturally and linguistically appropriate, in accordance with
38 regulations promulgated by the Commissioner of Health.

39 The bill further specifies that the general informed consent to
40 medical care, which has been provided by a person who is offered a
41 hepatitis C diagnostic or screening test under the bill's provisions, will
42 constitute sufficient consent for such test, and no additional or separate
43 consents, or any related documentation, will be required.

44 The bill authorizes the commissioner, in consultation with the
45 Public Health Council in the Department of Health, to adopt
46 regulations permitting any laboratory site, which has a current Clinical
47 Laboratory Improvement Amendments Certificate of Waiver from the

1 federal Centers for Medicare & Medicaid Services, to perform rapid
2 point-of-care hepatitis C tests licensed by the federal Food and Drug
3 Administration.

4 The bill requires the Commissioner of Health to evaluate the
5 impact of the bill with respect to the number of individuals who are
6 screened for hepatitis C and the number of individuals who have
7 accessed care following a positive test, and to report to the Governor
8 and the Legislature no later than one year after the date of enactment.

9 The bill would take effect on the first of January next following the
10 date of enactment, and section 1 of the bill would expire on January 1
11 of the fifth year next following the date of enactment.