

PROGRAM BILL # 14

Legislative Bill Drafting Commission
12044-01-6

S. _____
Senate

IN SENATE--Introduced by Sen

--read twice and ordered printed,
and when printed to be committed
to the Committee on

----- A.
Assembly

IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the
Committee on

PUBHEALA
(Relates to HIV prevention, educa-
tion and authorized prescriptions)

Pub Heal. HIV prevent

AN ACT

to amend the public health law and
the education law, in relation to
HIV prevention and care

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

IN SENATE

Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship
of this proposal

s15 Addabbo	s31 Espallat	s27 Hoylman	s25 Montgomery	s56 Robach
s52 Akshar	s49 Farley	s09 Kaminsky	s40 Murphy	s10 Sanders
s46 Amedore	s17 Felder	s63 Kennedy	s54 Nozzolio	s23 Savino
s11 Avella	s02 Flanagan	s34 Klein	s58 O'Mara	s41 Serino
s42 Bonacic	s55 Funke	s28 Krueger	s62 Ortt	s29 Serrano
s04 Boyle	s59 Gallivan	s24 Lanza	s60 Panepinto	s51 Seward
s44 Breslin	s12 Gianaris	s39 Larkin	s21 Parker	s26 Squadron
s38 Carlucci	s22 Golden	s37 Latimer	s13 Peralta	s16 Stavisky
s14 Comrie	s47 Griffo	s01 LaValle	s30 Perkins	s35 Stewart-
s03 Croci	s20 Hamilton	s45 Little	s19 Persaud	Cousins
s50 DeFrancisco	s06 Hannon	s05 Marcellino	s61 Ranzenhofer	s53 Valesky
s32 Diaz	s36 Hassell-	s43 Marchione	s48 Ritchie	s08 Venditto
s18 Dilan	Thompson	s07 Martins	s33 Rivera	s57 Young

IN ASSEMBLY

Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the
multi-sponsorship of this proposal:

a049 Abbate	a034 DenDekker	a011 Jean-Pierre	a003 Murray	a076 Seawright
a092 Abinanti	a054 Dilan	a135 Johns	a133 Nojay	a087 Sepulveda
a084 Arroyo	a081 Dinowitz	a077 Joyner	a037 Nolan	a027 Simanowitz
a035 Aubry	a147 DiPietro	a094 Katz	a130 Oaks	a052 Simon
a120 Barclay	a115 Duprey	a074 Kavanagh	a069 O'Donnell	a036 Simotas
a106 Barrett	a004 Englebright	a142 Kearns	a051 Ortiz	a104 Skartados
a060 Barron	a109 Fahy	a040 Kim	a091 Otis	a099 Skoufis
a082 Benedetto	a071 Farrell	a131 Kolb	a132 Palmesano	a022 Solages
a042 Bichotte	a126 Finch	a105 Lalor	a002 Palumbo	a114 Stec
a079 Blake	a008 Fitzpatrick	a013 Lavine	a088 Paulin	a110 Steck
a117 Blankenbush	a124 Friend	a134 Lawrence	a141 Peoples-	a127 Stirpe
a098 Brabenec	a095 Galef	a050 Lentol	Stokes	a112 Tedisco
a026 Braunstein	a137 Gantt	a125 Lifton	a058 Perry	a101 Tenney
a044 Brennan	a007 Garbarino	a072 Linares	a086 Pichardo	a001 Thiele
a119 Brindisi	a148 Giglio	a102 Lopez	a089 Pretlow	a061 Titone
a138 Bronson	a080 Gjonaj	a123 Lupardo	a073 Quart	a031 Titus
a093 Buchwald	a066 Glick	a010 Lupinacci	a019 Ra	a055 Walker
a118 Butler	a023 Goldfeder	a121 Magee	a012 Raia	a146 Walter
a103 Cahill	a150 Goodell	a129 Magnarelli	a006 Ramos	a141 Weinstein
a065 Cancel	a075 Gottfried	a064 Malliotakis	a043 Richardson	a024 Weprin
a062 Castorina	a005 Graf	a030 Markey	a078 Rivera	a059 Williams
a145 Ceretto	a100 Gunther	a090 Mayer	a056 Robinson	a113 Woerner
a047 Colton	a046 Harris	a108 McDonald	a068 Rodriguez	a143 Wozniak
a032 Cook	a139 Hawley	a014 McDonough	a067 Rosenthal	a070 Wright
a144 Corwin	a083 Heastie	a017 McKeivitt	a025 Rozic	a096 Zebrowski
a085 Crespo	a028 Hevesi	a107 McLaughlin	a116 Russell	a020
a122 Crouch	a048 Hiking	a038 Miller	a149 Ryan	a033
a021 Curran	a018 Hooper	a015 Montesano	a009 Saladino	
a063 Cusick	a128 Hunter	a136 Morelle	a111 Santabarbara	
a045 Cymbrowitz	a029 Hyndman	a057 Mosley	a016 Schimel	
a053 Davila	a097 Jaffee	a039 Moya	a140 Schimminger	

1) Single House Bill (introduced and printed separately in either or both
houses). Uni-Bill (introduced simultaneously in both houses and printed as one
bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2 signed
copies of bill and 4 copies of memorandum in support (single house); or 4 signed
copies of bill and 8 copies of memorandum in support (uni-bill).

1 Section 1. Section 2135 of the public health law, as amended by
2 section 3 of part A of chapter 60 of the laws of 2014, is amended to
3 read as follows:

4 § 2135. Confidentiality. All reports or information secured by the
5 department, municipal health commissioner or district health officer
6 under the provisions of this title shall be confidential except: (a) in
7 so far as is necessary to carry out the provisions of this title; (b)
8 when used in the aggregate, without patient specific identifying infor-
9 mation, in programs approved by the commissioner for the improvement of
10 the quality of medical care provided to persons with HIV/AIDS; (c) when
11 used within the state or local health department by public health
12 disease programs to assess co-morbidity or completeness of reporting and
13 to direct program needs, in which case patient specific identifying
14 information shall not be disclosed outside the state or local health
15 department; or (d) when used for purposes of patient linkage and
16 retention in care, patient specific identified information, including
17 information as to the degree to which persons with HIV are in care or
18 out of care, may be shared between local and state health departments
19 [and], health care providers [currently treating the patient], care
20 coordinators and other health and health information entities as defined
21 and approved by the commissioner.

22 § 2. The public health law is amended by adding a new section 2781-b
23 to read as follows:

24 § 2781-b. Access to HIV/AIDS testing, prevention and treatment for
25 minors. A health care provider licensed, certified or otherwise author-
26 ized to practice under title eight of the education law, acting within
27 his or her lawful scope of practice, may, consistent with this article,
28 test, diagnose, refer, treat and prescribe for HIV infection, HIV

1 related illness, and AIDS, including preventive treatment, to an indi-
2 vidual under eighteen years of age who has capacity to consent and who
3 has been, may have been, or is at risk of being exposed to HIV. Test-
4 ing, diagnosis, referral, treatment and prescribing under this section
5 may be provided without the consent or knowledge of the parent or guard-
6 ian of the individual. Health records and other information concerning
7 such testing, diagnosis, referral, treatment or prescribing shall be
8 confidential HIV related information and shall not be disclosed except
9 as provided in this article. A person under the age of eighteen years
10 may also consent to be enrolled in a health home or other form of care
11 coordination.

12 § 3. Subdivisions 1 and 2 of section 2781 of the public health law, as
13 amended by section 2 of part A of chapter 60 of the laws of 2014, are
14 amended to read as follows:

15 1. Except as provided in section three thousand one hundred twenty-one
16 of the civil practice law and rules, or unless otherwise specifically
17 authorized or required by a state or federal law, no person shall order
18 the performance of an HIV related test without [first having received
19 informed consent of the subject of the test who has capacity to consent
20 or, when the subject lacks capacity to consent, of a person authorized
21 pursuant to law to consent to health care for such individual. In order
22 for there to be informed consent, the person ordering the test shall,
23 prior to obtaining informed consent], at a minimum [advise], advising
24 the protected individual that an HIV-related test is being performed.

25 2. [Informed consent for HIV related testing pursuant to this section
26 shall be valid for such testing until such consent is revoked. Each time
27 that an HIV related test is ordered pursuant to informed consent in
28 accordance with this section, the physician or other person authorized

1 pursuant to law to order the performance of the HIV related test, or
2 such person's representative, shall orally notify the subject of the
3 test or, when the subject lacks capacity to consent, a person authorized
4 pursuant to law to consent to health care for such individual, that an
5 HIV related test will be conducted at such time, and shall note the
6 notification in the patient's record.] A person authorized pursuant to
7 law to perform HIV testing may perform a test after the subject of the
8 test is notified that HIV testing will be performed unless the individ-
9 ual declines or a person authorized to consent to health care for such
10 individual declines.

11 § 4. Subdivision 1 of section 2781-a of the public health law, as
12 added by chapter 308 of the laws of 2010, is amended to read as follows:

13 1. Every individual [between the ages of] age thirteen [and sixty-four
14 years] and older (or younger [or older] than thirteen if there is
15 evidence or indication of risk activity) who receives health services as
16 an inpatient or in the emergency department of a general hospital
17 defined in subdivision ten of section twenty-eight hundred one of this
18 chapter or who receives primary care services in an outpatient depart-
19 ment of such hospital or in a diagnostic and treatment center licensed
20 under article twenty-eight of this chapter or from a physician, physi-
21 cian assistant, nurse practitioner, or midwife providing primary care
22 shall be offered an HIV related test unless the health care practitioner
23 providing such services reasonably believes that (a) the individual is
24 being treated for a life threatening emergency; or (b) the individual
25 has previously been offered or has been the subject of an HIV related
26 test (except that a test shall be offered if otherwise indicated); or
27 (c) the individual lacks capacity to consent to an HIV related test.

1 § 5. Subdivision 6 of section 6527 of the education law is amended by
2 adding a new paragraph (g) to read as follows:

3 (g) screening of persons at increased risk of syphilis, gonorrhea and
4 chlamydia.

5 § 6. Subdivision 4 of section 6909 of the education law is amended by
6 adding a new paragraph (g) to read as follows:

7 (g) screening of persons at increased risk for syphilis, gonorrhea and
8 chlamydia.

9 § 7. Section 6527 of the education law is amended by adding a new
10 subdivision 7-a to read as follows:

11 7-a. A licensed physician may prescribe and order a patient specific
12 order or non-patient specific order to a licensed pharmacist, pursuant
13 to regulations promulgated by the commissioner in consultation with the
14 commissioner of health, and consistent with the public health law, for
15 dispensing medications for the purpose of preventing human immunodefici-
16 ency virus infection.

17 § 8. Section 6909 of the education law is amended by adding a new
18 subdivision 8 to read as follows:

19 8. A certified nurse practitioner may prescribe and order a patient
20 specific order or non-patient specific order to a licensed pharmacist,
21 pursuant to regulations promulgated by the commissioner in consultation
22 with the commissioner of health, and consistent with the public health
23 law, for dispensing medications for the purpose of preventing human
24 immunodeficiency virus infection.

25 § 9. Section 6801 of the education law is amended by adding a new
26 subdivision 5 to read as follows:

27 5. A licensed pharmacist may execute a non-patient specific order, for
28 dispensing medications for the purpose of preventing human immunodefici-

1 ency virus infection, by a physician licensed in this state or nurse
2 practitioner certified in this state, pursuant to rules and regulations
3 promulgated by the commissioner in consultation with the commissioner of
4 health.

5 § 10. This act shall take effect immediately; provided, however, that
6 the amendments to section 6801 of the education law made by section nine
7 of this act shall not affect the expiration of such section and shall be
8 deemed to expire therewith.