

**Governor's Program Bill
2016**

Memorandum

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

Purpose:

This bill would amend provisions of the Public Health Law (PHL) and the Education Law (Educ. L.) to support New York State's efforts to end the AIDS epidemic by decreasing the prevalence of human immunodeficiency virus (HIV) infections. It would also improve patient linkage and retention in care.

Summary of Provisions:

Section 1 of the bill would amend PHL § 2135 to expand patient-specific data sharing to include information as to the degree to which persons with HIV are in care or out of care. It would also allow such information to be shared between local and state health departments, health care providers, care coordinators, and other health and health information entities.

Section 2 of the bill would add a new PHL § 2781-b to authorize health care providers to test, diagnose, refer, treat, and prescribe for HIV infection, HIV related illness, and AIDS, including preventive treatment, to an individual under eighteen years of age who has capacity to consent and who has been, may have been, or is at risk of being exposed to HIV. Testing under this section may be provided without the consent or knowledge of the minor's parent or guardian, and any information shall not be disclosed except as allowed by law.

Section 3 of the bill would amend PHL § 2781 to remove provisions related to informed consent of the subject of an HIV related test and to require, at a minimum, that the protected individual be advised that an HIV related test is being performed. It would also authorize a health care practitioner to perform an HIV test after the subject of the test is notified that HIV testing will be performed unless the individual declines or a person authorized pursuant to consent to health care for such individual declines.

Section 4 of the bill would amend PHL § 2781-a(1) to provide that any individual over the age of thirteen shall be offered an HIV related test. Current law limits the mandatory offering to individuals between the ages of thirteen and sixty-four years.

Section 5 of the bill would add a new Educ. L. § 6527(g) to authorize physicians to issue a non-specific order for registered nurses to screen persons at increased risk for syphilis, gonorrhea and Chlamydia.

Section 6 of the bill would add a new Educ. L. § 6909(4)(g) to authorize registered nurses to screen persons at increased risk for syphilis, gonorrhea and Chlamydia pursuant to a non-patient specific order.

Section 7 of the bill would add a new Educ. L. § 6527(7-a) to authorize physicians to prescribe and order a patient specific or non-patient specific order to a pharmacist for dispensing medications for the purpose of preventing HIV.

Section 8 of the bill would add a new Educ. L. § 6909(8) to authorize a nurse practitioner to prescribe and order a patient specific or non-patient specific order to a pharmacist for dispensing medications for the purpose of preventing HIV.

Section 9 of the bill would add a new Educ. L. § 6801(5) to authorize a licensed pharmacist to dispense medications for the purpose of preventing HIV pursuant to a non-patient specific order.

Section 10 would set forth an immediate effective date, provided that the amendments to Educ. L. § 6801(5) shall not affect the expiration of such section.

Statement in Support:

Expansion of eligibility for data sharing:

HIV related data is routinely collected across New York State and reported through a variety of systems. New York State continues to use data effectively to inform and build on our capacity to understand the HIV epidemic in the state, improve patient outcomes, and prevent new infections. In 2014, a change in State law allowed for the sharing of surveillance data with medical providers to improve linkage and retention of HIV-infected persons in care. This change was made because there are thousands of HIV-infected New Yorkers who are not in continuous care and who are not virally suppressed. Viral suppression is the ultimate goal for persons with HIV, as it improves health and virtually eliminates the possibility of further transmission of HIV.

This bill would extend existing law to those organizations charged with identifying people who are out of care and linking them to care, such as care management/care coordination providers, health homes, and health information entities. Many individuals fall out of care due to having complex needs in addition to social barriers related to housing, employment, substance use and mental health issues. These individuals are more likely to be identified by these community based providers.

Access to HIV testing, prevention and treatment for minors:

Under current State law, minors can consent to testing for STDs and HIV and to treatment for STDs without parental or guardian consent. However, treatment for HIV is not included, a gap in care that would be addressed by this bill. Young people at highest risk often have other complications that can delay access to care, such as sexual orientation or gender identity issues, homelessness, substance abuse, or a lack of support systems. Delaying treatment for HIV leads to disease progression as well as increased transmission of the virus to others. In addition, young people at high risk who are negative should be able to consent to pre-exposure prophylaxis (PrEP) so they can stay negative.

Streamlined/routine testing of HIV/AIDS:

Almost half of all new infections may be from persons who are unaware of their HIV status. Testing must be increased in health care venues in order to identify persons with HIV and treat them early in their infection. To further bring HIV testing guidelines in line with federal guidelines, streamlining HIV testing, making it a routine part of health care, unless a patient explicitly refuses the HIV test is necessary. This bill would eliminate remaining barriers to routine testing, and thousands of New Yorkers living with HIV who are not aware of their HIV status will be identified.

Expanding the age beyond 64

HIV testing must be made available to more New Yorkers. This bill would extend the upper age for the offer of an HIV test beyond the age of 64, mandating the offer to all adults regardless of age. Older adults beyond the age of 64 are at risk of HIV and other STD infection, and half of all people living with diagnosed HIV infection in this State are age 50 and older. Additionally, approximately 200 cases of HIV are diagnosed each year in persons age 60 and older in New York State. With the advent of new medications, persons diagnosed with HIV are able to live average life spans. However, early diagnosis and access to treatment are essential.

Authorize registered nurses to screen for certain STDs pursuant to non-patient specific order:

Each year there are more than 100,000 diagnosed cases of syphilis, gonorrhea, and Chlamydia in New York State. STD screening and sexual health care must become more routine in order to address increasing STD infections and protect the health of New Yorkers. In order to expand STD screening and the identification and treatment of infected persons, and in order to reduce the burden on strained STD clinics and other health care settings, this bill would allow registered nurses to screen persons at increased risk for syphilis, gonorrhea and chlamydia pursuant to a non-patient specific order. This is consistent with the Ending the Epidemic Blueprint recommendations recognizing that STDs put people at greater risk of HIV infection, and with U.S. Preventive Services (USPS) recommendations.

Pharmacy access to medications for HIV infection prevention:

PEP (Post-Exposure Prophylaxis) is an HIV prevention method that only works if used within a short period of time after possible exposure to the virus (72 hours after exposure but treatment is recommended within 36 hours). Most New Yorkers currently need to go to an emergency room to access PEP. This bill would now allow pharmacists to dispense PEP without a patient specific order. This is a cost effective method that can have a significant impact on HIV prevention and improve referral and or coordination with doctors and other health professionals for follow-up to PEP.

Budget Implications:

None.

Effective Date

Immediate.