

CHAPTER 218

AN ACT concerning testing of pregnant women and newborns for HIV, amending P.L.1995, c.174 and supplementing Title 26 of the Revised Statutes.

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

1. Section 1 of P.L.1995, c.174 (C.26:5C-15) is amended to read as follows:

C.26:5C-15 Definitions.

1. As used in this act:

"AIDS" means acquired immune deficiency syndrome as defined by the Centers for Disease Control and Prevention of the United States Public Health Service.

"Commissioner" means the Commissioner of Health and Senior Services.

"Department" means the Department of Health and Senior Services.

"HIV" means the human immunodeficiency virus or any other related virus identified as a probable causative agent of AIDS.

2. Section 2 of P.L.1995, c.174 (C.26:5C-16) is amended to read as follows:

C.26:5C-16 Policy statement; information on HIV testing; guidelines for notification; confidentiality.

2. It is the policy of this State that: testing of all pregnant women for HIV shall be part of routine prenatal care; and, in the absence of a specific objection to the testing by the pregnant woman, all pregnant women shall be tested for HIV as early as possible in their pregnancy, and again during the third trimester of their pregnancy; testing of all pregnant women for HIV shall be voluntary and free of coercion; and a pregnant woman shall not be denied testing for HIV on the basis of her economic status.

a. (1) A physician or other health care practitioner who is the primary caregiver for a pregnant woman shall, in accordance with guidelines developed by the commissioner, provide the woman with information about HIV and AIDS, including an explanation of HIV infection and the meanings of positive and negative test results, and also inform the woman of the benefits of being tested for HIV as early as possible in the course of her pregnancy and a second time during the third trimester, the medical treatment available to treat HIV infection if diagnosed early, the reduced rate of transmission of HIV to a fetus if an HIV-infected pregnant woman receives treatment for HIV, and the interventions that are available to reduce the risk of transmission of HIV to the fetus and newborn. The information shall be provided orally or in writing, and the woman shall be offered an opportunity to ask questions.

The physician or other health care practitioner shall also advise the woman that HIV testing is recommended for all pregnant women both early in their pregnancy and during the third trimester, and that she will receive HIV tests as part of the routine panel of prenatal tests unless she specifically declines to be tested for HIV.

If a woman declines to be tested for HIV, the declination shall be documented in her medical record. A woman shall not be denied appropriate prenatal or other medical care because she declines to be tested for HIV.

(2) A pregnant woman, who presents herself for delivery and has not been tested for HIV during the course of her pregnancy, shall be given the information specified in paragraph (1) of this subsection as soon as may be medically appropriate and, unless she declines to be

tested for HIV after receiving that information, shall be tested for HIV as soon as may be medically appropriate.

b. The commissioner shall establish guidelines regarding notification to a woman whose test result is positive, and to provide, to the maximum extent possible, for counseling about the significance of the test result.

c. Information about a woman which is obtained pursuant to this section shall be held confidential in accordance with the provisions of P.L.1989, c.303 (C.26:5C-5 et seq.).

3. Section 6 of P.L.1995, c.174 (C.26:5C-20) is amended to read as follows:

C.26:5C-20 Rules, regulations.

6. The commissioner, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations to effect this act. The regulations shall be consistent with the latest recommendations for HIV testing of pregnant women prepared by the United States Centers for Disease Control and Prevention.

C.26:2-111.2 HIV testing required for certain newborns.

4. a. The Commissioner of Health and Senior Services shall require each birthing facility in the State to administer to a newborn in its care a test for human immunodeficiency virus (HIV) if the HIV status of the mother of the newborn is unknown.

A newborn shall not be denied testing for HIV on the basis of the newborn's economic status.

b. The commissioner shall establish a comprehensive program for the follow-up testing of newborns who test positive for HIV pursuant to subsection a. of this section or whose mother is HIV-positive, which shall include, but not be limited to, procedures for the administration of HIV testing, counseling of the newborn's mother, tracking the newborn, disclosure of HIV test results to the mother, facility compliance reviews, and educational activities related to the HIV testing.

c. The provisions of this section shall not apply to a newborn whose parents object to the test as being in conflict with their religious tenets and practices. The parents shall provide the health care facility with a written statement of the objection, and the statement shall be included in the newborn's medical record.

d. As used in this section, "birthing facility" means an inpatient or ambulatory health care facility licensed by the Department of Health and Senior Services that provides birthing and newborn care services.

e. The Commissioner of Health and Senior Services shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to carry out the purposes of this section.

5. This act shall take effect on the 180th day after enactment but the commissioner may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved December 27, 2007.