

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 306 Session of 2017

INTRODUCED BY D. COSTA, CALTAGIRONE, MURT, BARRAR, MATZIE, BAKER, NEILSON, IRVIN, MILLARD, GABLER, McNEILL, DeLUCA, WARD, MILNE, KORTZ AND READSHAW, FEBRUARY 3, 2017

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 3, 2017

AN ACT

1 Amending the act of November 29, 1990 (P.L.585, No.148),
 2 entitled "An act providing for confidentiality of certain
 3 records; providing for the authorized sharing of certain
 4 information; providing for written consent prior to an HIV-
 5 related test, with certain exceptions; providing for civil
 6 immunity for certain licensed physicians; providing for
 7 protective procedures and equipment; and creating a civil
 8 cause of action," further providing for prevention of
 9 transmission of infectious diseases and for confidentiality
 10 of records.

11 The General Assembly of the Commonwealth of Pennsylvania
 12 hereby enacts as follows:

13 Section 1. Sections 4 and 7(a) of the act of November 29,
 14 1990 (P.L.585, No.148), known as the Confidentiality of HIV-
 15 Related Information Act, are amended to read:

16 Section 4. Prevention of transmission of infectious diseases.

17 (a) General rule.--The department shall, by regulation,
 18 require the use of protective measures and equipment by
 19 individuals, persons and institutions not covered by regulations
 20 promulgated by the Occupational Safety and Health Administration
 21 governing such protective measures and equipment. The department

1 shall develop such regulations pursuant to guidelines
2 established by the CDC. For health care providers covered by the
3 provisions of the Occupational Safety and Health Administration
4 governing such protective measures and equipment, the department
5 shall encourage compliance with approved standards. This section
6 shall not preclude the department from exercising rulemaking
7 authority granted under any other act.

8 (b) Disclosure.--The Department of Corrections shall
9 disclose the HIV, hepatitis B or hepatitis C status of any
10 infected inmate to all corrections officers required to interact
11 with the infected inmate. The release of this information is
12 only to further provide for the personal safety of corrections
13 officers and in no way shall the corrections officers disclose
14 the inmate's confidential HIV-related information to any third
15 party.

16 Section 7. Confidentiality of records.

17 (a) Limitations on disclosure.--No person or employee, or
18 agent of such person, who obtains confidential HIV-related
19 information in the course of providing any health, correctional
20 or social service or pursuant to a release of confidential HIV-
21 related information under subsection (c) may disclose or be
22 compelled to disclose the information, except to the following
23 persons:

24 (1) The subject.

25 (2) The physician who ordered the test, or the
26 physician's designee.

27 (3) Any person specifically designated in a written
28 consent as provided for in subsection (c).

29 (4) An agent, employee or medical staff member of a
30 health care provider, when the health care provider has

1 received confidential HIV-related information during the
2 course of the subject's diagnosis or treatment by the health
3 care provider, provided that the agent, employee or medical
4 staff member is involved in the medical care or treatment of
5 the subject. Nothing in this paragraph shall be construed to
6 require the segregation of confidential HIV-related
7 information from a subject's medical record.

8 (5) A peer review organization or committee as defined
9 in the act of July 20, 1974 (P.L.564, No.193), known as the
10 Peer Review Protection Act, a nationally recognized
11 accrediting agency, or as otherwise provided by law, any
12 Federal or State government agency with oversight
13 responsibilities over health care providers.

14 (6) Individual health care providers involved in the
15 care of the subject with an HIV-related condition or a
16 positive test, when knowledge of the condition or test result
17 is necessary to provide emergency care or treatment
18 appropriate to the individual; or health care providers
19 consulted to determine diagnosis and treatment of the
20 individual.

21 (7) An insurer, to the extent necessary to reimburse
22 health care providers or to make any payment of a claim
23 submitted pursuant to an insured's policy.

24 (8) The department and persons authorized to gather,
25 transmit or receive vital statistics under the act of June
26 29, 1953 (P.L.304, No.66), known as the Vital Statistics Law
27 of 1953.

28 (9) The department and local boards and departments of
29 health, as authorized by the act of April 23, 1956 (1955
30 P.L.1510, No.500), known as the Disease Prevention and

1 Control Law of 1955.

2 (10) A person allowed access to the information by a
3 court order issued pursuant to section 8.

4 (11) A funeral director responsible for the acceptance
5 and preparation of the deceased subject.

6 (12) Employees of county mental health/mental
7 retardation agencies, county children and youth agencies,
8 county juvenile probation departments, county or State
9 facilities for delinquent youth, and contracted residential
10 providers of the above-named entities receiving or
11 contemplating residential placement of the subject, who:

12 (i) generally are authorized to receive medical
13 information; and

14 (ii) are responsible for ensuring that the subject
15 receives appropriate health care; and

16 (iii) have a need to know the HIV-related
17 information in order to ensure such care is provided.

18 (13) Corrections officers required to interact with
19 infected inmates.

20 The above-named entities may release the information to a
21 court in the course of a dispositional proceeding under 42
22 Pa.C.S. §§ 6351 (relating to disposition of dependent child)
23 and 6352 (relating to disposition of delinquent child) when
24 it is determined that such information is necessary to meet
25 the medical needs of the subject.

26 * * *

27 Section 2. This act shall take effect in 60 days.