

FEB 21 2001
HUMAN RESOURCES

WITHDRAWN
1/16/02
HOUSE FILE 331
BY BAUDLER

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the testing of individuals and the release of
2 the results of tests for communicable and infectious diseases
3 and for the human immunodeficiency virus.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 331

1 Section 1. Section 139A.2, Code 2001, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 1A. "Care provider" means any health care
4 provider, emergency medical care provider as defined in
5 section 147A.1, fire fighter, peace officer, or any other
6 individual providing health care services or services of any
7 kind in the course of the individual's official duties. "Care
8 provider" also includes an individual who is trained and
9 authorized by federal or state law to provide emergency
10 medical assistance for compensation, or in a voluntary
11 capacity, and an individual who renders emergency aid without
12 compensation.

13 Sec. 2. Section 139A.2, subsection 6, Code 2001, is
14 amended by striking the subsection.

15 Sec. 3. Section 139A.19, Code 2001, is amended to read as
16 follows:

17 139A.19 **EMERGENCY CARE PROVIDER NOTIFICATION.**

18 1. a. A hospital licensed under chapter 135B shall have
19 written policies and procedures for notification of an
20 emergency a care provider who renders assistance or treatment
21 to an individual when, in the course of admission, care, or
22 treatment of the individual, the individual is diagnosed or is
23 confirmed as having a contagious or infectious disease.

24 b. If an individual is diagnosed or confirmed as having a
25 contagious or infectious disease, the hospital shall notify
26 the care provider or the designated officer of an-emergency
27 the care provider ~~service~~ who shall notify persons involved in
28 attending, or transporting, or otherwise assisting the
29 individual. For blood-borne contagious or infectious
30 diseases, notification shall only take place upon filing of an
31 exposure report form with the hospital. The exposure report
32 form may be incorporated into the Iowa prehospital care
33 report, the Iowa prehospital advanced care report, or a
34 similar report used by an ambulance, rescue, or first response
35 service or law enforcement agency.

1 c. A person who renders direct emergency aid without
2 compensation and is exposed to an individual who has a
3 contagious or infectious disease shall also receive
4 notification from the hospital upon the filing with the
5 hospital of an exposure report form developed by the
6 department.

7 d. The notification shall advise the **emergency care**
8 provider of possible exposure to a particular contagious or
9 infectious disease and recommend that the care provider seek
10 medical attention. The notification shall be provided as soon
11 as is reasonably possible following determination that the
12 individual has a contagious or infectious disease.

13 e. This subsection does not require a hospital to
14 administer a test for the express purpose of determining the
15 presence of a contagious or infectious disease. The
16 notification shall not include the name of the individual with
17 the contagious or infectious disease unless the individual
18 consents.

19 f. The department shall adopt rules pursuant to chapter
20 17A to administer this subsection.

21 2. A health care provider shall provide the notification
22 required of hospitals in this section to **emergency care**
23 providers if an individual who has a contagious or infectious
24 disease is delivered by **an-emergency a** care provider to the
25 office or clinic of a health care provider for treatment. The
26 notification shall not include the name of the individual who
27 has the contagious or infectious disease unless the individual
28 consents.

29 3. This section does not preclude a hospital from
30 providing notification to **an-emergency a** care provider or
31 health care provider under circumstances in which the
32 hospital's policy provides for notification of the hospital's
33 own employees of exposure to a contagious or infectious
34 disease that is not life-threatening if the notice does not
35 reveal a patient's name unless the patient consents.

1 4. A hospital, health care provider, or other person
2 acting reasonably and in good faith in complying with
3 provisions authorized or required under this section, is
4 immune from any liability, civil or criminal, which may
5 otherwise be incurred or imposed.

6 5. A hospital's or health care provider's duty of
7 notification under this section is not continuing but is
8 limited to a diagnosis of a contagious or infectious disease
9 made in the course of admission, care, and treatment following
10 the rendering of emergency assistance or treatment to which
11 notification under this section applies.

12 Sec. 4. Section 141A.1, subsection 5, Code 2001, is
13 amended to read as follows:

14 5. "Care provider" means any ~~emergency-care-provider,~~
15 health care provider, emergency medical care provider as
16 defined in section 147A.1, fire fighter, peace officer, or any
17 other person individual providing health care services or
18 services of any kind in the course of the individual's
19 official duties. "Care provider" also includes an individual
20 who is trained and authorized by federal or state law to
21 provide emergency medical assistance for compensation or in a
22 voluntary capacity and an individual who renders emergency aid
23 without compensation.

24 Sec. 5. Section 141A.1, subsection 7, Code 2001, is
25 amended by striking the subsection.

26 Sec. 6. Section 141A.8, Code 2001, is amended by striking
27 the section and inserting in lieu thereof the following:

28 141A.8 CARE PROVIDER NOTIFICATION.

29 1. If a care provider sustains a significant exposure from
30 an individual, the individual to whom the care provider was
31 exposed is deemed to consent to a test to determine the
32 presence of HIV infection in that individual and is deemed to
33 consent to notification of the care provider of the HIV test
34 results of the individual. The sample and test results shall
35 only be identified by a number and no reports otherwise

1 required by this chapter shall be made which identify the
2 individual tested. The test shall be conducted by the
3 hospital or health care provider to whom the individual is
4 delivered by the care provider. If the individual is
5 delivered by the care provider to an institution administered
6 by the Iowa department of corrections, the test shall be
7 conducted by the staff physician of the institution. If the
8 individual is delivered by the care provider to a jail, the
9 test shall be conducted by the attending physician of the jail
10 or the county medical examiner.

11 2. The hospital, health care provider, or other person who
12 performs the test to determine the presence of HIV infection
13 under this section shall notify the care provider of the
14 results of the test and shall also inform the care provider of
15 the parties to whom notification was provided. The process
16 for notification under this subsection shall be initiated as
17 soon as is reasonably possible. If prior consent to testing
18 was not obtained, and if the test results are positive, the
19 hospital, health care provider, or other person performing the
20 test shall notify the subject of the test and ensure the
21 performance of counseling and reporting requirements of this
22 chapter in the same manner as for an individual from whom
23 actual consent was obtained.

24 3. This section does not require or permit, unless
25 otherwise provided, a hospital, health care provider, or other
26 person to administer a test for the express purpose of
27 determining the presence of HIV infection, except that testing
28 may be performed if the individual consents, and if the
29 requirements of this section are satisfied.

30 4. A hospital, health care provider, or other person
31 participating in good faith in making a report under the
32 notification provisions of this section or in failing to make
33 a report under this section, or a hospital, health care
34 provider, or other person participating in good faith in
35 performing a test under this section is immune from any

1 liability, civil or criminal, which might otherwise be
2 incurred or imposed.

3 5. Notifications made pursuant to this section shall not
4 disclose the identity of the individual who is diagnosed or
5 confirmed as having HIV infection unless the individual
6 provides a specific written release. If the care provider
7 determines the identity of the individual diagnosed or
8 confirmed as having HIV infection, the identity of the
9 individual shall be confidential information and shall not be
10 disclosed to any other person unless a specific written
11 release is obtained from the individual diagnosed or confirmed
12 as having HIV infection.

13 6. The duty of a hospital, health care provider, or other
14 person who performs a test under this section to notify is not
15 continuing but is limited to the diagnosis of HIV infection
16 made in the course of admission, care, and treatment following
17 the rendering of testing, assistance, or treatment of the
18 individual with the infection.

19 7. The employer of a care provider who sustained a
20 significant exposure under this section shall pay the costs of
21 HIV testing for the individual who is the source of the
22 significant exposure and of the testing and counseling of the
23 care provider, if the significant exposure was sustained
24 during the course of employment. However, the department
25 shall pay the costs of HIV testing for the individual who is
26 the source of the significant exposure and of the testing and
27 counseling of the care provider who renders direct aid without
28 compensation.

29 EXPLANATION

30 This bill relates to the testing of individuals for
31 communicable and infectious diseases or for human
32 immunodeficiency virus when the individual has been assisted
33 by a care provider.

34 The bill defines "care provider" under the communicable and
35 infectious disease chapter (Code chapter 139A) for the

1 purposes of specifying who is to be notified if an individual,
2 during the course of admission, care, or treatment in a
3 hospital is diagnosed or confirmed as having a contagious or
4 infectious disease. Care providers are health care providers,
5 emergency medical care providers as defined in Code section
6 147A.1, fire fighters, peace officers, or any other individual
7 providing health care services or services of any kind in the
8 course of the individual's official duties. "Care provider"
9 also includes an individual who is trained and authorized by
10 federal or state law to provide emergency medical assistance
11 for compensation or in a voluntary capacity and an individual
12 who renders emergency aid without compensation.

13 The bill also amends the acquired immune deficiency
14 syndrome chapter (Code chapter 141A) to provide for the
15 deeming of consent to testing for HIV infection of an
16 individual from whom a care provider sustains a significant
17 exposure. The bill defines "care provider" to mean health
18 care providers, emergency medical care providers as defined in
19 Code section 147A.1, fire fighters, peace officers, or any
20 other individual providing health care services or services of
21 any kind in the course of the individual's official duties.
22 "Care provider" also includes an individual who is trained and
23 authorized by federal or state law to provide emergency
24 medical assistance for compensation or in a voluntary
25 capacity, and an individual who renders emergency aid without
26 compensation. The bill provides that sample and test results
27 are only to be identified by a number and provides that the
28 identity of an individual who is diagnosed or confirmed as
29 having HIV infection is confidential. The bill provides that
30 a hospital, health care provider, or other person is not
31 required or permitted, unless otherwise provided, to
32 administer a test for the express purpose of determining the
33 presence of HIV infection, unless the individual consents.
34 The bill provides immunity from civil and criminal liability
35 for good faith participation under the bill. The bill

1 provides that the duty of a hospital, health care provider, or
2 other person who performs a test under the bill to notify is
3 not continuing but is limited to the diagnosis made in the
4 course of admission, care, and treatment following the
5 rendering of testing, assistance, or treatment of the
6 individual. The bill provides that the costs of testing and
7 counseling of a care provider and the cost of testing of an
8 individual who is the subject of the significant exposure are
9 to be covered by the employer of the care provider if the
10 significant exposure was sustained during the course of
11 employment. If the care provider renders direct aid without
12 compensation, the Iowa department of public health is to pay
13 the cost of testing and counseling of the care provider and
14 the cost of testing of the individual who is the subject of
15 the significant exposure.

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