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1999 Regular Session
9lr2397

By: Delegate Rzepkowski

Introduced and read first time: February 19, 1999 Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

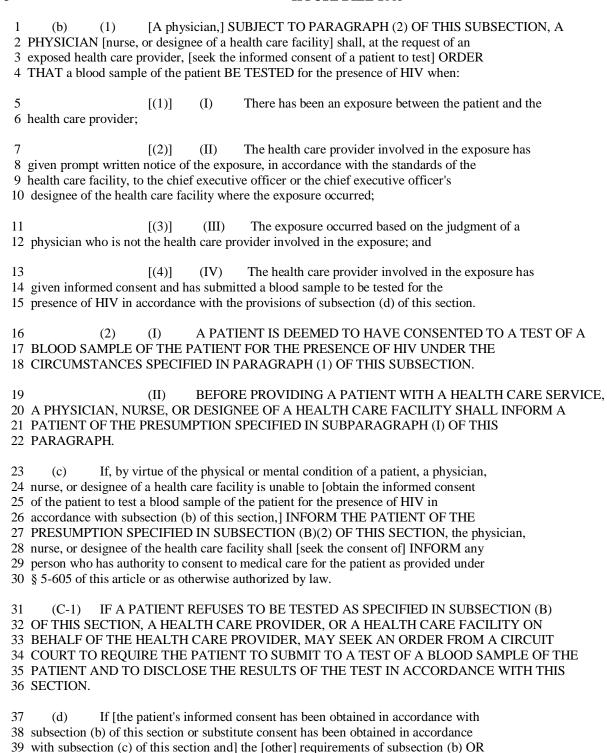
2 Health Care Providers - HIV Exposure - Patient Consent

- 3 FOR the purpose of repealing a certain requirement that a certain patient give
- 4 informed consent to a certain blood test if a certain exposure involving the
- 5 patient and a health care provider occurs; requiring a physician, on request by a
- 6 certain health care provider, to order that a blood sample of a certain patient be
- 7 tested for the presence of HIV under certain circumstances; deeming a patient to
- 8 have consented to a test of the blood sample of the patient for the presence of
- 9 HIV under certain circumstances; requiring a physician, nurse, or designee of a
- 10 health care facility to inform a patient or a certain other person of a certain
- presumption at a certain time; authorizing a certain health care provider or a
- certain health care facility to seek a court order to require a certain patient to
- submit to a certain test under certain circumstances; authorizing a physician or
- a designee of the physician to collect and test a certain blood sample under
- certain circumstances; and generally relating to the HIV exposure of certain
- health care providers and patient consent.
- 17 BY repealing and reenacting, with amendments,
- 18 Article Health General
- 19 Section 18-338.1
- 20 Annotated Code of Maryland
- 21 (1994 Replacement Volume and 1998 Supplement)
- 22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
- 23 MARYLAND, That the Laws of Maryland read as follows:
- 24 Article Health General
- 25 18-338.1.
- 26 (a) (1) In this section the following words have the meanings indicated.
- 27 (2) (i) "Body fluids" means:

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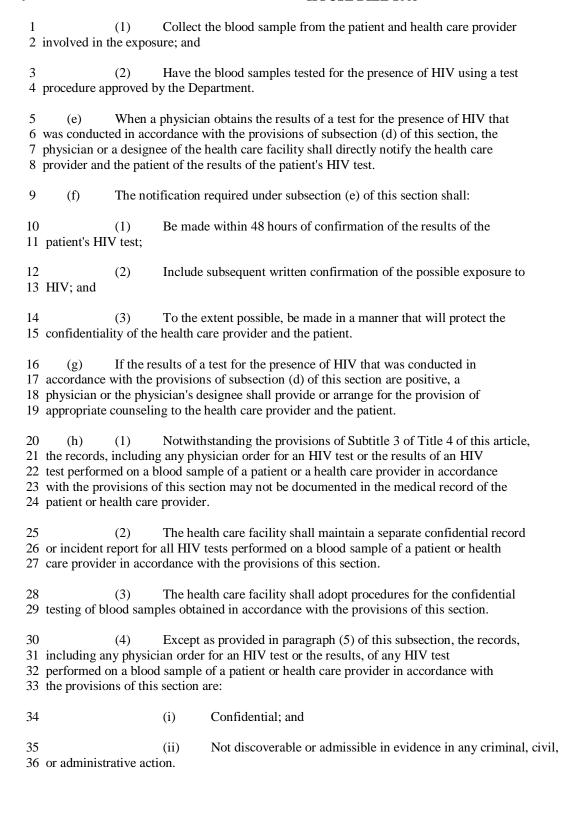
1 2	secretions; or		1. Any fluid containing visible blood, semen, or vaginal
3			2. Cerebrospinal fluid, synovial, or amniotic fluid.
4 5	sputum, tears, urine, o	(ii) or vomitu	"Body fluid" does not include saliva, stool, nasal secretions, as.
6	(3)	"Exposi	ure" means as between a patient and a health care provider:
7		(i)	Percutaneous contact with blood or body fluids;
8		(ii)	Mucocutaneous contact with blood or body fluids;
9 10	chapped skin, contac	(iii) t with blo	Open wound, including dermatitis, exudative lesions, or body fluids for a prolonged period; or
11 12	for a prolonged period	(iv) od.	Intact skin contact with large amounts of blood or body fluids
13 14	(4) medical care is provi		care facility" means a facility or office where health or tients by a health care provider, including:
15		(i)	A health care facility as defined in § 19-101(f)(1) of this article;
16		(ii)	A facility operated by the Department or a health officer;
17		(iii)	The office of a health care provider; or
18		(iv)	A medical laboratory.
	(5) certified, or otherwis health or medical car		"Health care provider" means a person who is licensed, zed under the Health Occupations Article to provide
22 23	or		1. The ordinary course of business or practice of a profession
24			2. In an approved education or training program.
25 26	health care facility.	(ii)	"Health care provider" includes any agent or employee of a
29		officer of	"Health care provider" does not include any individual who is under the provisions of § 18-213 of this title, including or any member of any fire department, ambulance
31 32	(6) acquired immune det		means the human immunodeficiency virus that causes syndrome.

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40 (C) of this section have been satisfied, a physician or the physician's designee shall:

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- 1 (5) If the identity of the patient or any other information that could be
- 2 readily associated with the identity of the patient is not disclosed, the results of an
- 3 HIV test performed on a patient or health care provider in accordance with the
- 4 provisions of this section may be introduced into evidence in any criminal, civil, or
- 5 administrative action including the adjudication of a workers' compensation claim.
- 6 (i) The costs incurred in performing an HIV test on a patient or health care 7 provider in accordance with the provisions of this section shall be paid by the health 8 care facility.
- 9 (j) All health care facilities shall develop written procedures to implement the 10 provisions of this section.
- 11 (k) A health care provider or health care facility acting in good faith to provide
- 12 notification or maintain the confidentiality of the results of a test for the presence of
- 13 HIV in accordance with the provisions of this section may not be held liable in any
- 14 cause of action related to a breach of patient or health care provider confidentiality.
- 15 (1) The Medical and Chirurgical Faculty of the State of Maryland in
- 16 consultation with the Centers for Disease Control, the Maryland Hospital
- 17 Association, and the Department of Health and Mental Hygiene shall develop a
- 18 practice protocol for physicians who are infected with HIV.
- 19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
- 20 October 1, 1999.