

MAINE STATE LEGISLATURE

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132nd MAINE LEGISLATURE

FIRST SPECIAL SESSION-2025

Legislative Document

No. 1970

H.P. 1314

House of Representatives, May 13, 2025

An Act to Amend the Laws Regarding Consent for HIV Testing and Disclosure of Related Medical Information for Insurance Purposes

Reference to the Committee on Health Coverage, Insurance and Financial Services
suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative OSHER of Orono.
Cosponsored by Senator BRENNER of Cumberland and
Representatives: EDER of Waterboro, Speaker FECTION of Biddeford, FLYNN of Albion,
MATHIESON of Kittery, MOONEN of Portland, RANA of Bangor, ROEDER of Bangor,
SUPICA of Bangor.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 5 MRSA §19203-A**, as amended by PL 2011, c. 229, §1, is further amended
3 by amending the section headnote to read:

4 **§19203-A. Voluntary informed consent required**

5 **Sec. 2. 5 MRSA §19203-A, sub-§1**, as amended by PL 2007, c. 93, §1, is further
6 amended to read:

7 **1. Individual Patient tested; general consent.** Except as provided in this section and
8 section 19203, subsections 4 and 5, an HIV test must be voluntary and undertaken only
9 with a patient's knowledge and understanding that an HIV test is planned general consent.
10 ~~A patient must be informed orally or in writing that an HIV test will be performed unless~~
11 ~~the patient declines. Oral or written information required to be given to a patient under this~~
12 ~~subsection must include an explanation of what an HIV infection involves and the meaning~~
13 ~~of positive and negative test results. A patient must be provided the opportunity to ask~~
14 ~~questions, either orally or in writing. Informed consent is not required for repeated HIV~~
15 ~~testing by health care providers to monitor the course of established infection. A patient~~
16 ~~who has provided general consent for the performance of a medical procedure or test is not~~
17 ~~required to provide informed consent for an HIV test or to be provided an informed consent~~
18 ~~form for an HIV test.~~

19 A. For the purposes of this subsection, "general consent" means consent obtained
20 without undue inducement or any element of compulsion, fraud, deceit, duress or any
21 other form of constraint or coercion and after providing instruction to a patient that:

22 (1) As part of a medical procedure or test, the patient may receive an HIV test; and

23 (2) Receiving an HIV test is voluntary and the patient may choose not to submit
24 to an HIV test.

25 B. If a patient declines an HIV test, the health care provider shall document that
26 decision in the patient's medical record.

27 C. The consent of a minor's parent or legal guardian is not required to perform an HIV
28 test on the minor under this subsection.

29 D. Oral or written information must be given to a patient and must include an
30 explanation of what an HIV infection involves and the meaning of positive and
31 negative test results. A patient must be provided the opportunity to ask questions,
32 either orally or in writing.

33 E. Results of a test performed pursuant to this subsection must be provided to the
34 health care provider that ordered the test.

35 **Sec. 3. 5 MRSA §19203-D, sub-§7** is enacted to read:

36 **7. Insurance reimbursement.** This section does not preclude disclosure of
37 information in a medical record for the purpose of seeking insurance reimbursement for
38 HIV testing.

SUMMARY

This bill provides that an HIV test may be undertaken with a patient's general consent. The bill defines "general consent" to mean consent obtained without undue inducement or any element of compulsion, fraud, deceit, duress or any other form of constraint or coercion and that is obtained after providing instruction to a patient that, as part of a medical procedure or test, the patient may receive an HIV test and that receiving an HIV test is voluntary and the patient may choose not to submit to an HIV test. The bill also provides that disclosure of information in a medical record for the purpose of seeking insurance reimbursement for HIV testing is not precluded. The bill removes the requirement that an HIV test may be undertaken only with a patient's informed consent.