

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 1791

S.P. 626

In Senate, March 9, 1999

An Act to Promote Effective Management of Occupational Exposure to HIV.

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in black ink, reading 'Joy J. O'Brien'.

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator GOLDTHWAIT of Hancock.
Cosponsored by Senators: PENDLETON of Cumberland, RAND of Cumberland,
Representatives: BROOKS of Winterport, PIEH of Bremen.

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

2
4 **Sec. 1. 5 MRSA §19201, sub-§2-A** is enacted to read:

6 **2-A. Health care setting.** "Health care setting" means any
8 location where there is provision of preventive, diagnostic,
10 therapeutic, rehabilitative, maintenance or palliative care,
12 services, procedures or counseling, including appropriate
14 assistance with disease or symptom management and maintenance
16 that affects an individual's physical, mental or behavioral
18 condition, including the process of banking blood, sperm, organs
20 or any other tissue.

22 **Sec. 2. 5 MRSA §19203-A, sub-§4-A** is enacted to read:

24 **4-A. Occupational exposure in health care setting.** When an
26 occupational exposure occurs in a health care setting,
28 authorization to test the source patient for HIV must be obtained
30 from that patient if the patient is available at the time of
32 exposure and capable of providing consent. At the time of
34 exposure, if the source patient is unavailable or unable to
36 provide authorization, then any available member of the following
38 classes of individuals, in descending order of priority, may
40 authorize an HIV test on an available blood or tissue sample from
42 the source patient:

44 A. The patient's legal guardian;

46 B. An individual known to have power of attorney for health
48 care for the patient;

50 C. An adult relative, by blood, marriage or adoption;

D. Another adult with whom the patient has a meaningful
 social and emotional relationship; and

E. A physician who is familiar with occupational exposures
 to HIV.

The individual authorizing the HIV test must be informed of the
 nature, reliability and significance of the HIV test and the
 confidential nature of the test.

The patient may choose not to be informed about the result of the
 HIV test. Without express patient authorization, the results of
 the HIV test and the fact that an HIV test was done as a result
 of an occupational exposure in a health care setting may not
 appear in the patient's health care records. The exposed
 individual's health care record may include documentation of the
 occupational exposure and, if the record does not reveal the

2 source patient's identity, the results of the source patient's
3 HIV test.

4 **Sec. 3. 5 MRSA §19203-C, sub-§1, ¶C**, as amended by PL 1995, c.
5 404, §7, is further amended to read:

6
7 C. Written informed consent was not given by the person
8 whose blood or body fluid is the source of the exposure and
9 that person has refused to be tested, or in the event of an
10 occupational exposure in a health care setting where the
11 source patient was unable or unavailable to authorize the
12 test, the individual contacted for authorization to test the
13 source patient's available blood or tissue sample denied the
14 authorization.

16

SUMMARY

18

19 The bill expands the list of individuals able to give
20 consent or authorize HIV testing in the event of an occupational
exposure in a health care setting.