

AMENDED IN ASSEMBLY MARCH 28, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2179

Introduced by Assembly Member Gipson

February 18, 2016

An act to add Section 122440 to the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

AB 2179, as amended, Gipson. Hepatitis C testing.

Existing law establishes the Office of AIDS in the State Department of Public Health and defines human immunodeficiency virus (HIV) as the etiologic agent of acquired immunodeficiency syndrome (AIDS). Existing law authorizes an HIV counselor who receives specified training and works in specified counseling and testing sites to perform HIV, hepatitis C virus (HCV), or combined HIV/HCV tests, including performing skin punctures for purposes of withdrawing blood for purposes of these tests, as specified.

This bill would authorize a hepatitis C counselor, who meets specified requirements comparable to the requirements specified for an HIV counselor, to perform HCV tests in the manner described above with respect to HCV testing by an HIV counselor.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 122440 is added to the Health and Safety
- 2 Code, to read:

1 122440. (a) A hepatitis C counselor who meets the
2 requirements of subdivision ~~(e)~~ (d) may do all of the following:

3 (1) Perform any hepatitis C virus (HCV) test that is classified
4 as waived under the federal Clinical Laboratory Improvement Act
5 (CLIA) (42 U.S.C. Sec. 263a et seq.) if all of the following
6 conditions exist:

7 (A) The performance of the HCV test meets the requirements
8 of CLIA and, subject to subparagraph (B), Chapter 3 (commencing
9 with Section 1200) of Division 2 of the Business and Professions
10 Code.

11 (B) Notwithstanding Section 1246 of the Business and
12 Professions Code, a hepatitis C counselor may perform skin
13 punctures for the purpose of withdrawing blood for HCV testing,
14 upon specific authorization from a licensed physician and surgeon,
15 provided that the person meets both of the following requirements:

16 (i) He or she works under the direction of a licensed physician
17 and surgeon.

18 (ii) He or she has been trained in ~~both~~ *either* rapid test
19 proficiency for skin puncture blood tests ~~and~~ *or* oral swab tests
20 and in universal infection control precautions, consistent with best
21 infection control practices established by the Division of
22 Occupational Safety and Health in the Department of Industrial
23 Relations and the federal Centers for Disease Control and
24 Prevention.

25 (C) The person performing the HCV test meets the requirements
26 for the performance of waived laboratory testing pursuant to
27 subdivision (a) of Section 1206.5 of the Business and Professions
28 Code. For purposes of this subdivision and subdivision (a) of
29 Section 1206.5 of the Business and Professions Code, a hepatitis
30 C counselor who meets the requirements of subdivision ~~(e)~~ (d)
31 shall be “other health care personnel providing direct patient care”
32 as referred to in paragraph (13) of subdivision (a) of Section 1206.5
33 of the Business and Professions Code.

34 (D) The patient is informed that the preliminary result of the
35 test is indicative of the likelihood of HCV exposure and that the
36 result must be confirmed by an additional more specific test, or,
37 if approved by the federal Centers for Disease Control and
38 Prevention for that purpose, a second, different rapid HCV test.
39 This subdivision does not allow a hepatitis C counselor to perform
40 any HCV test that is not classified as waived under CLIA.

1 (2) Notwithstanding Section 1246.5 of the Business and
2 Professions Code, order and report HCV test results from tests
3 performed pursuant to paragraph (1) to patients without
4 authorization from a licensed health care practitioner or his or her
5 authorized representative. A patient who has *an* indeterminate or
6 positive test ~~results~~ *result* from tests performed pursuant to
7 paragraph (1) shall be referred to a licensed health care practitioner
8 whose scope of practice includes the authority to refer a patient
9 for laboratory testing for further evaluation.

10 ~~(b) A hepatitis C counselor shall not, unless also certified as a~~
11 ~~limited phlebotomist technician, perform a skin puncture pursuant~~
12 ~~to this section.~~

13 ~~(e)~~

14 (b) A hepatitis C counselor who meets the requirements of this
15 section with respect to performing any HCV test that is classified
16 as waived under CLIA may not perform any other test unless that
17 person meets the statutory and regulatory requirements for
18 performing that other test.

19 ~~(d)~~

20 (c) This section does not certify a hepatitis C counselor as a
21 phlebotomy technician or a limited phlebotomy technician.
22 Compliance with this section does not fulfill any requirements for
23 certification as a phlebotomy technician or a limited phlebotomy
24 technician, unless the hepatitis C counselor has otherwise satisfied
25 the certification requirements imposed pursuant to Section 1246
26 of the Business and Professions Code.

27 ~~(e)~~

28 (d) A hepatitis C counselor shall meet one of the following
29 criteria:

30 (1) Is trained by the Office of AIDS and working in an HIV
31 counseling and testing site funded by the department through a
32 local health jurisdiction, or its agents.

33 (2) Is working in an HIV counseling and testing site that meets
34 both of the following criteria:

35 (A) Utilizes HIV counseling staff who are trained by the Office
36 of AIDS or its agents to provide both HIV counseling and testing
37 and hepatitis C counseling and testing.

38 (B) Has a quality assurance plan approved by the local health
39 department in the jurisdiction where the site is located and has
40 HIV counseling and testing staff who comply with the quality

1 assurance requirements specified in Section 1230 of Article 1 of
2 Group 9 of Subchapter 1 of Chapter 2 of Division 1 of Title 17 of
3 the California Code of Regulations.

4 (3) Is working at a site approved by the local health department
5 to provide hepatitis C rapid testing and counseling, and has been
6 trained using a curriculum approved by the local health department
7 or the State Department of Public Health, which, at a minimum,
8 provides training in universal precautions, safe working conditions,
9 proper running and reading of hepatitis C rapid test kit technology,
10 and providing accurate information to clients including the
11 importance of confirmatory tests, linkages to medical care, and
12 the prevention of hepatitis C transmission.

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