

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-SIX

H.P. 1314 - L.D. 1970

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

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

Sec. 1. 5 MRSA §19203, sub-§2, as amended by PL 1999, c. 512, Pt. B, §1 and affected by §§5 and 6, is further amended to read:

2. Designated health care provider. To a health care provider designated by the subject of the test ~~in writing~~. When a patient has authorized disclosure of HIV test results to a person or organization providing health care, the patient's health care provider may make these results available only to other health care providers working directly with the patient and only for the purpose of providing direct medical or dental patient care. Any health care provider who discloses HIV test results in good faith pursuant to this subsection is immune from any criminal or civil liability for the act of disclosing HIV test results to other health care providers;

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

1. Individual Patient tested; informed consent. Except as provided in this section and section 19203, subsections 4 and 5, an HIV test must be voluntary and undertaken only with a patient's ~~knowledge and understanding that an HIV test is planned~~ informed consent. ~~A patient must be informed orally or in writing that an HIV test will be performed unless the patient declines. Oral or written information required to be given to a patient under this subsection must include an explanation of what an HIV infection involves and the meaning of positive and negative test results. A patient must be provided the opportunity to ask questions, either orally or in writing. Informed consent is not required for repeated HIV testing by health care providers to monitor the course of established infection.~~

A. Information on the meaning of a positive and negative HIV test result must be made available to the patient. A patient must be provided the opportunity to ask questions, either orally or in writing.

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

C. A patient has the right to decline an HIV test and, if the patient declines an HIV test, the health care provider shall document that decision in the patient's medical record.

Results of an HIV test performed pursuant to this subsection must be provided to the health care provider that ordered the test.

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

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