

House Bill 436 (AS PASSED HOUSE AND SENATE)

By: Representatives Clark of the 101st, Cooper of the 43rd, Sims of the 123rd, Kaiser of the 59th, Hawkins of the 27th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 17 of Title 31 of the Official Code of Georgia Annotated, relating to
2 control of venereal disease, so as to require that physicians and health care providers offer
3 HIV and syphilis testing of pregnant women in their third trimester of pregnancy; to provide
4 for refusal of testing by a pregnant woman; to amend Chapter 22 of Title 31 of the Official
5 Code of Georgia Annotated, relating to clinical laboratories, so as to eliminate the
6 requirement for counseling by a health care provider prior to ordering an HIV test; to amend
7 Code Section 43-34-25 of the Official Code of Georgia Annotated, relating to delegation of
8 certain medical acts to advanced practice registered nurses, so as to revise provisions relating
9 to the number of advanced practice registered nurses a delegating physician can enter into
10 a protocol agreement with at any one time; to provide for related matters; to repeal
11 conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 style="text-align:center">**SECTION 1.**

14 Chapter 17 of Title 31 of the Official Code of Georgia Annotated, relating to control of
15 venereal disease, is amended by revising Code Section 31-17-4.2, relating to HIV Pregnancy
16 Screening, as follows:

17 "31-17-4.2.

18 (a) This Code section shall be known and may be cited as the 'Georgia HIV/Syphilis
19 Pregnancy Screening Act of 2007 2015.'

20 (b) Every physician and health care provider who assumes responsibility for the prenatal
21 care of a pregnant women woman during gestation and at delivery shall be required to test
22 such pregnant women woman for HIV and syphilis except in cases where the woman
23 refuses the testing. Additionally, every physician and health care provider who provides
24 prenatal care of a pregnant woman during the third trimester of gestation shall offer to test
25 such pregnant woman for HIV and syphilis at the time of first examination during that
26 trimester or as soon as possible thereafter, regardless of whether such testing was
27 performed during the first two trimesters of her pregnancy.

- 28 (c) If at the time of delivery there is no written evidence that an HIV test or a syphilis test
 29 has been performed, the physician or other health care provider in attendance at the
 30 delivery shall order that a ~~sample of the woman's blood be taken or a rapid oral test~~ test for
 31 HIV, syphilis, or both be administered at the time of the delivery except in cases where the
 32 woman refuses the testing; provided, however, that if available documentation indicates
 33 that a test for HIV and syphilis was already performed during the third trimester of her
 34 pregnancy in accordance with subsection (b) of this Code section, and the woman does not
 35 disclose when questioned any activities posing a risk for infection with HIV or syphilis
 36 occurring more recently than would have been detected by such test, the physician or health
 37 care provider in attendance at the delivery is not required to order such additional test.
- 38 (d) The woman shall be informed of the test to be conducted and her right to refuse. A
 39 pregnant woman shall submit to an HIV test and a syphilis test pursuant to this Code
 40 section unless she specifically declines. If the woman tests positive for HIV or syphilis,
 41 counseling services provided by the Department of Public Health shall be made available
 42 to her and she shall be referred to appropriate medical care providers for herself and her
 43 child.
- 44 (e) If for any reason the pregnant woman is not tested for HIV and syphilis, that fact shall
 45 be recorded in the patient's records, which, if based upon the refusal of the patient, shall
 46 relieve the physician or other health care provider of any other responsibility under this
 47 Code section.
- 48 (f) The Department of Public Health shall be authorized to promulgate rules and
 49 regulations for the purpose of administering the requirements under this Code section."

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SECTION 2.

51 Chapter 22 of Title 31 of the Official Code of Georgia Annotated, relating to clinical
 52 laboratories, is amended by revising subsection (c) and paragraph (1) of subsection (g) of
 53 Code Section 31-22-9.2, relating to HIV tests, as follows:

54 "(c) Unless exempted under this Code section, each health care provider who orders an
 55 HIV test for any person shall do so only after ~~counseling~~ notifying the person to be tested.
 56 Unless exempted under this subsection, the person to be tested shall have the opportunity
 57 to refuse the test. The provisions of this subsection shall not be required if the person is
 58 required to submit to an HIV test pursuant to Code Section 15-11-603, 17-10-15,
 59 31-17-4.2, 31-17A-3, 42-5-52.1, or 42-9-42.1. The provisions of this subsection shall not
 60 be required if the person is a minor or incompetent and the parent or guardian thereof
 61 permits the test after compliance with this subsection. The provisions of this subsection
 62 shall not be required if the person is unconscious, temporarily incompetent, or comatose
 63 and the next of kin permits the test after compliance with this subsection. The provisions
 64 of this subsection shall not apply to emergency or life-threatening situations. The

65 provisions of this subsection shall not apply if the physician ordering the test is of the
66 opinion that the person to be tested is in such a medical or emotional state that disclosure
67 of the test would be injurious to the person's health. The provisions of this subsection shall
68 only be required prior to drawing the body fluids required for the HIV test and shall not be
69 required for each test performed upon that fluid sample."

70 "(1) If the patient or the patient's representative, if the patient is a minor, otherwise
71 incompetent, or unconscious, does not refuse the test after being notified that the test is
72 to be ordered and after having been provided ~~counseling~~ and an opportunity to refuse the
73 test; or"

74 **SECTION 2A.**

75 Code Section 43-34-25 of the Official Code of Georgia Annotated, relating to delegation of
76 certain medical acts to advanced practice registered nurses, is amended by adding a new
77 paragraph to subsection (g) to read as follows:

78 "(4.1) In any community service board;"

79 **SECTION 3.**

80 All laws and parts of laws in conflict with this Act are repealed.