

30:4-7.7

LEGISLATIVE HISTORY CHECKLIST
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NJSA: 30:4-7.7 (Psychiatric hospitals--patients--blood testing)

LAWS OF: 1997 **CHAPTER:** 361

BILL NO: S1547

SPONSOR(S): Martin and others

DATE INTRODUCED: October 3, 1996

COMMITTEE: **ASSEMBLY:** Community Affairs
SENATE: Human Services

AMENDED DURING PASSAGE: Yes Amendments during passage denoted
Third reprint enacted by superscript numbers

DATE OF PASSAGE: **ASSEMBLY:** February 27, 1997 Re-enacted 1-8-98
SENATE: March 24, 1997 Re-enacted 12-15-97

DATE OF APPROVAL: January 18, 1998

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes Also attached: statement,
adopted 2-20-97

COMMITTEE STATEMENT: **ASSEMBLY:** Yes
SENATE: Yes

FISCAL NOTE:

VETO MESSAGE: Yes

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: Yes

HEARINGS: Yes

Report mentioned in statement:

974.90 New Jersey. Legislature. Senate Task Force on Greystone Park.
I52 Psychiatric Hospital.
1996a Final report...June, 1996. Trenton, 1996.
[see recommendation #19 - p.7]

974.90 New Jersey. Legislature.
I42 Public hearing, held 4-17-96, Morris Plains, NJ, 1996.
1996 [see pp. 25-34]
v3

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§§1-3
C. 30:4-7.7
To
30:4-7.9
§4
Note To §§1-3

P.L. 1997, CHAPTER 361, *approved January 18, 1998*
Senate, No. 1547 (*Third Reprint*)

1 AN ACT concerning the testing of patients at State psychiatric facilities
2 for hepatitis B, ²hepatitis C,² HIV infection and sexually transmitted
3 diseases and supplementing Title 30 of the Revised Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. As used in this act:

9 a. "AIDS" means acquired immune deficiency syndrome as defined
10 by the Centers for Disease Control and Prevention of the United States
11 Public Health Service.

12 b. "HIV infection" means infection with the human
13 immunodeficiency virus or any other related virus identified as a
14 probable causative agent of AIDS.

15
16 2. a. ³[A] An adult³ patient who is admitted for treatment at a
17 State psychiatric hospital shall be required, upon admission, to submit
18 to ¹blood¹ testing for hepatitis B, ²hepatitis C,² ³[HIV infection,]³
19 and ³ [¹other¹]³ sexually transmitted diseases ¹[such as chancroid,
20 gonorrhea, syphilis, herpes virus, or any of the varieties or stages of
21 such diseases] , as determined by the Commissioner of Human
22 Services. ³[More extensive testing or examination to determine the
23 presence of sexually transmitted diseases or stages of such diseases
24 shall be performed within 90 days of a patient's admission or may be
25 performed sooner, as appropriate to the patient's psychiatric
26 condition.¹] The guardian, or the patient at a time appropriate to the
27 patient's psychiatric condition, shall be provided with information and
28 counseling regarding the benefits of being tested for HIV infection.
29 The guardian, or patient, shall then be presented with the option of

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SHU committee amendments adopted November 7, 1996.

² Assembly floor amendments adopted February 20, 1997.

³ Senate amendments adopted in accordance with Governor's recommendations December 11, 1997.

1 HIV testing.³

2 b. The Commissioner of Human Services shall develop guidelines
3 for the treatment and confinement of a patient who tests positive to
4 any disease specified in subsection a. of this section, in consultation
5 with the Commissioner of Health and Senior Services, and in
6 accordance with recommended protocols established by the Centers
7 for Disease Control and Prevention of the United States Public Health
8 Services.

9 ¹c. All employees at a State psychiatric hospital shall be trained
10 ³[how to interact with a patient who has hepatitis B, ²hepatitis C, ²
11 HIV infection or any sexually transmitted disease. No employee shall
12 be required to interact with a patient with any of these diseases unless
13 so trained. Any employee who may come in contact with a patient
14 who has any of these diseases shall be given advance notice, to the
15 extent possible, that the patient has one of these diseases.¹] to use
16 universal precautions to avoid infection with any sexually transmitted
17 disease, hepatitis B or hepatitis C.³

18
19 3. Subject to the "Administrative Procedure Act," P.L.1968, c.410
20 (C.52:14B-1 et seq.), the Commissioner of Human Services shall
21 adopt all rules and regulations necessary to effectuate the purposes of
22 this act.

23
24 4. This act shall take effect on the 60th day after enactment.

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29 Requires hepatitis B, hepatitis C and sexually transmitted disease
30 testing of adult patients at State psychiatric hospitals and provision of
31 information concerning benefits of HIV testing.

STATEMENT

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This bill requires all patients who are admitted for treatment at State psychiatric hospitals to submit to testing, upon admission, for hepatitis B, HIV infection, and sexually transmitted diseases such as chancroid, gonorrhea, syphilis, herpes virus, or any of the varieties or stages of such diseases.

The bill requires the Commissioner of Human Services to develop guidelines for the treatment and confinement of a patient who tests positive to any disease specified in the bill, in consultation with the Commissioner of Health and Senior Services, and in accordance with recommended protocols established by the Centers for Disease Control and Prevention of the United States Public Health Services.

This bill is one of several legislative initiatives recommended in the final report of the Senate Task Force on Greystone Park Psychiatric Hospital issued in June, 1996.



Requires hepatitis B, HIV and sexually transmitted disease testing of patients at State psychiatric hospitals.

[Passed Both Houses]

[Third Reprint]

SENATE, No. 1547

STATE OF NEW JERSEY

INTRODUCED OCTOBER 3, 1996

By Senators MARTIN, BASSANO, Codey, MacInnes, Bubba,
Assemblywoman Murphy and Assemblyman Bucco

1 AN ACT concerning the testing of patients at State psychiatric facilities
2 for hepatitis B, ²hepatitis C,² HIV infection and sexually
3 transmitted diseases and supplementing Title 30 of the Revised
4 Statutes.

5

6 BE IT ENACTED *by the Senate and General Assembly of the State*
7 *of New Jersey:*

8

9 1. As used in this act:

10 a. "AIDS" means acquired immune deficiency syndrome as defined
11 by the Centers for Disease Control and Prevention of the United States
12 Public Health Service.

13 b. "HIV infection" means infection with the human
14 immunodeficiency virus or any other related virus identified as a
15 probable causative agent of AIDS.

16

17 2. a. ³[A] An adult³ patient who is admitted for treatment at a
18 State psychiatric hospital shall be required, upon admission, to submit
19 to ¹blood¹ testing for hepatitis B, ²hepatitis C,² ³[HIV infection,]³
20 and ³ [¹other¹]³ sexually transmitted diseases ¹[such as chancroid,
21 gonorrhea, syphilis, herpes virus, or any of the varieties or stages of
22 such diseases] as determined by the Commissioner of Human
23 Services. ³[More extensive testing or examination to determine the
24 presence of sexually transmitted diseases or stages of such diseases
25 shall be performed within 90 days of a patient's admission or may be

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

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Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SHU committee amendments adopted November 7, 1996.

² Assembly floor amendments adopted February 20, 1997.

³ Senate amendments adopted in accordance with Governor's recommendations December 11, 1997.

1 performed sooner, as appropriate to the patient's psychiatric
2 condition.¹] The guardian, or the patient at a time appropriate to the
3 patient's psychiatric condition, shall be provided with information and
4 counseling regarding the benefits of being tested for HIV infection.
5 The guardian, or patient, shall then be presented with the option of
6 HIV testing.³

7 b. The Commissioner of Human Services shall develop guidelines
8 for the treatment and confinement of a patient who tests positive to
9 any disease specified in subsection a. of this section, in consultation
10 with the Commissioner of Health and Senior Services, and in
11 accordance with recommended protocols established by the Centers
12 for Disease Control and Prevention of the United States Public Health
13 Services.

14 ¹c. All employees at a State psychiatric hospital shall be trained
15 ³[how to interact with a patient who has hepatitis B, ²hepatitis C,²
16 HIV infection or any sexually transmitted disease. No employee shall
17 be required to interact with a patient with any of these diseases unless
18 so trained. Any employee who may come in contact with a patient
19 who has any of these diseases shall be given advance notice, to the
20 extent possible, that the patient has one of these diseases.¹] to use
21 universal precautions to avoid infection with any sexually transmitted
22 disease, hepatitis B or hepatitis C.³

23

24 3. Subject to the "Administrative Procedure Act," P.L.1968, c.410
25 (C.52:14B-1 et seq.), the Commissioner of Human Services shall
26 adopt all rules and regulations necessary to effectuate the purposes of
27 this act.

28

29 4. This act shall take effect on the 60th day after enactment.

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34 Requires hepatitis B, hepatitis C and sexually transmitted disease
35 testing of adult patients at State psychiatric hospitals and provision of
36 information concerning benefits of HIV testing.

ASSEMBLY COMMUNITY SERVICES COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 1547

STATE OF NEW JERSEY

DATED: JANUARY 9, 1997

The Assembly Community Services Committee reports favorably Senate Bill No. 1547 (1R).

This bill requires all patients who are admitted for treatment at State psychiatric hospitals to submit to blood testing, upon admission, for hepatitis B, HIV infection, and other sexually transmitted diseases, as determined by the Commissioner of Human Services. More extensive testing and examination to determine the presence of sexually transmitted diseases or stages of such diseases shall be performed within 90 days of a patient's admission or may be performed sooner, as appropriate to the patient's psychiatric condition.

Also, all employees at a State psychiatric hospital shall be trained how to interact with a patient who has hepatitis B, HIV infection or any sexually transmitted disease. No employee shall be required to interact with a patient with any of these diseases unless so trained. Any employee who may come in contact with a patient who has any of these diseases shall be given advance notice, to the extent possible, that the patient has one of these diseases.

The bill requires the Commissioner of Human Services to develop guidelines for the treatment and confinement of a patient who tests positive to any disease specified in the bill, in consultation with the Commissioner of Health and Senior Services, and in accordance with recommended protocols established by the Centers for Disease Control and Prevention of the United States Public Health Service.

This bill is one of several legislative initiatives recommended in the final report of the Senate Task Force on Greystone Park Psychiatric Hospital issued in June, 1996.

This bill is identical to Assembly Bill No. 2432 Aca, which was released by this committee on this date.

STATEMENT TO
[First Reprint]
SENATE, No. 1547

with Assembly Floor Amendments
(Proposed By Assemblywoman Murphy)

ADOPTED: FEBRUARY 20, 1997

This floor amendment adds hepatitis C to the list of diseases for which patients must be tested upon admission for treatment at a State psychiatric hospital.

**SENATE BILL NO. 1547
(Second Reprint)**

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 1547 (Second Reprint) with my recommendations for reconsideration.

A. Summary of the Bill

This bill mandates that all patients admitted for treatment at State psychiatric facilities be required upon admission to submit to blood testing for Hepatitis B, Hepatitis C, HIV infection and other sexually transmitted diseases as determined by the Commissioner of Human Services. It also requires that within 90 days of a patient's admission, the patient be given more extensive testing or examination to determine the presence of sexually transmitted diseases or the stages of such diseases.

The bill provides that the Commissioner of Human Services, in consultation with the Commissioner of Health and Senior Services and in accordance with recommended protocols established by the Centers for Disease Control and Prevention of the United States Public Health Services, shall develop guidelines for the treatment and confinement of persons who test positive for any of these diseases.

The bill mandates that all employees at State psychiatric hospitals be trained how to interact with a patient who has Hepatitis B, Hepatitis C, HIV infection or any sexually transmitted disease. It also provides that no employees shall be required to interact with patients with any of these diseases unless so trained. It further requires that any employee who may come in contact with a patient who has any of these diseases be given advance notice that the patient has the disease.

B. Recommended Action

I commend the Legislature for passing this important legislation as one of the legislative initiatives recommended by the Senate Task Force on Greystone Park Psychiatric Hospital for the purpose of enhancing protection and improving the quality of

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care for patients in psychiatric hospitals. In particular, I commend the sponsors of this legislation for their courage in addressing this sensitive issue, which requires that a balance be struck between the privacy rights of patients and public health considerations.

I am concerned, however, that the bill as drafted curtails privacy rights in an unacceptably broad manner. It will result, for instance, in the mandatory testing of children admitted to these facilities for HIV infection and other sexually transmitted diseases. The Director of Mental Health Services in the Department of Human Services advises that approximately one hundred children per year are admitted to a State psychiatric hospital. Some of these children are as young as eleven years old. The mandatory testing of children for HIV infection and other sexually transmitted diseases is simply not needed to effectuate the bill's main purpose of preventing the spread of sexually transmitted diseases in psychiatric hospitals. Accordingly, I propose to amend the bill to include only adult admittees in the category of psychiatric patients required to receive mandatory testing for sexually transmitted diseases.

I am additionally concerned that this bill as drafted may undermine the State's efforts to protect against the proliferation of mandatory testing for HIV. With the exception of a law giving victims of sexual assault the right to require the assailant to be tested for HIV and a regulation requiring the HIV testing of professional boxers, voluntary testing of individuals and universal precautions for health care workers is the established policy of this State. Mandatory testing of all individuals admitted to State psychiatric hospitals is an abrogation of these guiding principles and could send the State's HIV testing policy down a slippery slope toward mandatory testing of other vulnerable populations. I therefore propose to amend the bill to delete the requirement of mandatory HIV testing and to replace this requirement with a provision requiring the guardian, or the patient at a time

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appropriate to the patient's psychiatric condition, to be informed of the benefits of HIV testing and allowing the option of voluntary testing.

For similar reasons, the bill's requirement that a patient submit to more extensive testing within 90 days of his/her admission constitutes an overly intrusive invasion of the patient's right to privacy. Therefore, I am recommending that this provision be deleted from the bill.

I am equally concerned with respect to the bill's notification requirements. Notification to employees that a patient has tested positive for any sexually transmitted disease will not be necessary if employees are properly trained to use universal precautions in dealing with all patients. Accordingly, I am recommending that the notification provision be deleted from the bill and be replaced by a provision requiring that employees use universal precautions when interacting with all patients. The above proposed amendments are more consistent with the State's established policies.

Therefore, I herewith return Senate Bill No. 1547 (Second Reprint) and recommend that it be amended as follows:

- Page 1, Section 2, Line 17: Delete "A" insert "An adult"
- Page 1, Section 2, Line 19: Delete "HIV infection,"; after "and" delete "other"
- Page 1, Section 2, Line 22: After "Services." insert "The guardian, or the patient at a time appropriate to the patient's psychiatric condition, shall be provided with information and counseling regarding the benefits of being tested for HIV infection. The guardian, or patient, shall then be presented with the option of HIV testing."; delete "More extensive"
- Page 1, Section 2, Lines 23-26: Delete in entirety

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Page 2, Section 2, Lines 5-10:

Delete in entirety and
insert "to use universal
precautions to avoid
infection with any sexually
transmitted disease,
hepatitis B, or hepatitis
C."

Respectfully,

/s/ Christine Todd Whitman

GOVERNOR

[seal]

Attest:

/s/ Michael P. Torpey

Chief Counsel to the Governor