



LAWS OF DELAWARE
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CHAPTER 389
153rd GENERAL ASSEMBLY
FORMERLY
HOUSE BILL NO. 346

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO SEXUALLY TRANSMITTED DISEASE PREVENTION AND CONTROL.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Subchapter I, Chapter 7, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Subchapter I. Sexually Transmitted Disease Prevention and Control

§ 701. Definitions.

(a) “Director” means the Director of the Division of Public Health or the Director’s authorized deputies within their respective jurisdictions.

(b) “Expedited partner therapy” means the clinical practice of treating the sex partners of patients diagnosed with a sexually transmitted disease without clinical assessment of the partners.

(c) “Health-care practitioner” means a physician or an individual licensed and authorized to prescribe under Title 24.

(d) “Health-care professional” means any physician, nurse, laboratory or blood bank technologist or technician, and any others whose professions involve the diagnosis, care, or treatment of individuals or the testing of bodily specimens for the purpose of finding evidence of disease.

(e) “Health facility” means a hospital, nursing home, clinic, blood bank, blood center, sperm bank, laboratory, or other health-care institution whether public or private.

~~(f) “Invasive medical procedures” means surgical entry into tissues, cavities, or organs.~~

~~(g) “Sexually transmitted diseases” or “STD” (formerly referred to as “venereal diseases”), means diseases designated by the Department of Health and Social Services as reportable through rules and regulations published by the Department of Health and Social Services under § 702 of this title upon finding that such disease meets both of the following:~~

~~(1) Cause significant morbidity and mortality.~~

~~(2) Can be screened, diagnosed, and treated in a public health control program, or if not, are a major public health concern such that surveillance of disease occurrence is in the public interest.~~

(f) “Sexually transmitted infection” or “STI” means infections for which the primary route of spread is through sexual contact including vaginal, anal, or oral sex, or other contact with internal or external genitalia.

(g) “Sexually transmitted disease” or “STD” refers to the presence of signs, symptoms, or diagnostic test findings manifesting in an individual as a result of a sexually transmitted infection.

(h) “Suspect” means an individual falling into 1 or more of the following categories:

(1) An individual having positive laboratory or clinical findings of an STI or STD.

(2) An individual in whom epidemiologic evidence indicates an STI or STD may exist.

(3) An individual identified as a sexual contact of an STI or STD case.

§ 702. Reporting and Prevention of STIs and STDs.

(a) A physician or any other health-care professional who diagnoses, ~~suspects~~ suspects, or treats a reportable STI or STD and every administrator of a health facility or ~~state, county or city prison~~ at a Department of Correction facility in which there is a case of a reportable STI or STD shall must report such case to the Division of Public Health specifying the infected person’s name, address, age, ~~sex~~ sex, and race as well as the date of onset, name and stage of disease, type and amount of treatment ~~given~~ given, and the name and address of the submitting health ~~professional~~ professional. ~~within 1 working day. Certain STDs, which shall be identified by the Department of Health and Social Services, shall be reported in number only and in a manner determined by the Department of Health and Social Services.~~

(b) Any person who is in charge of a clinical or hospital laboratory, blood bank, mobile ~~unit~~ unit, or other facility in which a laboratory examination of any specimen derived from a human body yields microscopical, cultural, ~~serological~~ serological, or other evidence suggestive of a reportable STI or STD shall must notify the Division of Public Health of its ~~findings~~ findings. ~~within 1 working day.~~ The Department of Health and Social Services may require the notification to contain any information necessary to achieve the purposes of this chapter including the tests performed and the results, the name, age, race, ~~sex~~ sex, and address of the persons from whom the specimen was obtained, the reason why the test was ~~performed~~ performed, and the name and address of the physician and that of the processing clinical laboratory. ~~Certain STDs, which shall be identified by the Department of Health and Social~~

~~Services, shall be reported in number only and in a manner determined by the Department of Health and Social Services.~~

(c) The Department of Health and Social Services shall prescribe the form and method of reporting to the Division of Public Health which may be in writing, by telephone, by electronic data transmission or by other means.

(d) All reports and notifications made pursuant to this section are confidential and protected from release except under the provisions of §§ 710 and 711 of this title. From information received from laboratory notifications, the Division of Public Health may contact attending physicians. The Division of Public Health shall inform the attending physician, if the notification indicates the person has an attending physician, before contacting a person from whom a specimen was obtained. However, if delays resulting from informing the physician may enhance the spread of the STI or STD, or otherwise endanger the health of either individuals or the public, the Division of Health may contact the person without first informing the attending physician.

(e) Any laboratory which examines specimens for the purpose of finding evidence of an STI or STD shall permit the Division of Public Health to examine the records of said laboratory in order to evaluate compliance with this section.

(f) Any health-care professional or other person making the reports required by this section shall be free of any liability or any cause of action arising out of the making of such report if such health-care professional or other person acts without malice and has made a reasonable effort to obtain the facts upon which the report is based.

(g) The Director or designated employee of the Division must take action to prevent and control the spread of disease upon receiving notice of a case, or a suspected case of a reportable STI or STD. Such designated employee may be an employee working within the STD program of the Division and may be a clinician or non-clinician who has received training in the control and prevention of STIs or STDs.

~~§ 703. Examination, investigation and treatment of suspected persons [Effective until July 17, 2028].~~

~~The Director or, if the Director is not a licensed physician or advanced practice registered nurse, a licensed physician or advanced practice registered nurse designated by the Director and employed by the Division, shall, when in their own judgment it is necessary to protect the public health, make examinations of persons reasonably suspected of being infected with an STD of a communicable nature; examine medical records of suspect or diagnosed cases which may be maintained by a health facility or health care professional; require persons infected with an STD of a communicable nature to report for treatment to a health care professional, public or private, qualified to provide~~

~~treatment and continue treatment until cured, if possible, and also, when in the Director's own judgment or, if the Director is not a licensed physician or advanced practice registered nurse, the judgment of a licensed physician or advanced practice registered nurse designated by the Director and employed by the Division, it is necessary to protect the public health, may issue an order seeking to examine, isolate or quarantine persons infected with an STD of a communicable nature or persons suspected of being infected with an STD. [Repealed.]~~

~~§ 703. Examination, investigation and treatment of suspected persons [Effective July 17, 2028].~~

~~The Director shall, when in the Director's own judgment it is necessary to protect the public health, make examinations of persons reasonably suspected of being infected with an STD of a communicable nature; examine medical records of suspect or diagnosed cases which may be maintained by a health facility or health care professional; require persons infected with an STD of a communicable nature to report for treatment to a health care professional, public or private, qualified to provide treatment and continue treatment until cured, if possible, and also, when in the Director's own judgment it is necessary to protect the public health, may issue an order seeking to examine, isolate or quarantine persons infected with an STD of a communicable nature or persons suspected of being infected with an STD. [Repealed].~~

~~§ 703A. Expedited partner therapy.~~

~~(b) A health-care practitioner who provides expedited partner therapy shall provide counseling for the patient, including advice that all symptomatic individuals, and in particular women with symptoms suggestive of pelvic inflammatory disease, are encouraged to seek medical attention. The health-care practitioner shall also provide written materials, provided by the Department of Health and Social Services, to be given by the patient to the sexual partner. The written materials must include the following:~~

~~(4) The requirement of abstinence until a period of time after treatment to prevent infecting others. Notification of the importance of abstaining from sexual activity until completion of treatment and for the recommended post-treatment period.~~

~~§ 704. Procedure for apprehension, commitment, treatment and quarantine of an infected person.~~

~~(a) Orders directed to persons with an STD of a communicable nature or restrictive measures on individuals with a communicable STD, as described in this section and in § 705 of this title shall be used when other measures to protect the public health have failed, including reasonable efforts, which shall be documented, to obtain the voluntary cooperation of the individual who may be subject to such an order.~~

~~(b) When the Director knows or has reason to believe, because of medical or epidemiological information, that a person has an STD of a communicable nature and is a danger to the public health, the Director may issue an order to:~~

~~(1) Require the person to be examined and tested to determine whether the person has an STD of a communicable nature;~~

~~(2) Require the person with an STD of a communicable nature to report to a qualified health care professional for counseling on the disease and for information on how to avoid infecting others;~~

~~(3) Direct a person with an STD of a communicable nature to cease and desist from specified conduct which endangers the health of others when the Director has determined that reliable information exists to believe that such person has been ordered to report for counseling as provided in paragraph (b)(2) of this section and continues to demonstrate behavior which endangers the health of others.~~

~~(c) If a person violates a cease and desist order issued pursuant to paragraph (b)(3) of this section and it is shown that the person is a danger to others, the Director may enforce the cease and desist order by imposing such restrictions upon the person as are necessary to prevent the specific conduct which endangers the health of others. Any restriction shall be in writing, setting forth the name of the person to be restricted and the initial period of time, not to exceed 3 months, during which the order shall remain effective, the terms of the restrictions and such other conditions as may be necessary to protect the public health. The Director shall review appeals for reconsideration from the subject of the order issued pursuant to this subsection.~~

~~(d) (1) Any order by the Director pursuant to subsection (b) or (c) of this section shall indicate to the subject of the order the grounds and provisions of the order and notify such person that if the person refuses to comply with the order the person has a right to be present at a judicial hearing in the Justice of the Peace Court to review the order and that the person may have an attorney appear on the person's behalf in said hearing. Notice of any order by the Director shall either be by personal service or by prepaid certified mail, return receipt requested, at the subject's last known address.~~

~~(2) If the subject of the order refuses to comply with the order the Director may petition the Justice of the Peace Court for an order of compliance with such order. If an order of compliance is requested, the Court shall hear the matter within 10 days after the request. Notice of the place, date and time of the court hearing shall be made by personal service or, if the person is not available, shall be mailed to the subject of the order by prepaid~~

~~certified mail, return receipt requested, at the person's last known address. The burden of proof shall be on the Director to show by clear and convincing evidence that the specified grounds exist for the issuance of the order and for the need for compliance and that the terms and conditions imposed are necessary to protect the public health. Upon conclusion of the hearing, the Court shall issue appropriate orders affirming, modifying or dismissing the order.~~

~~(3) If the Director does not petition the Justice of the Peace Court for an order of compliance within 30 days after the subject of the order refuses to comply, the Director's order shall expire automatically and upon application to the Director by the subject of the order, the fact that the order was issued shall be expunged from the records of the Division of Public Health.~~

~~(e) Any hearing conducted pursuant to this section shall be closed and confidential, and any transcripts or records relating thereto shall also be confidential. [Repealed.]~~

~~§ 705. Emergency public health procedures.~~

~~(a) When the procedures of § 704 of this title have been exhausted or cannot be satisfied as a result of threatened criminal behavior and the Director knows or has reason to believe, because of medical or epidemiological information, that a person has an STD of a communicable nature and that such person presents an imminent danger to the public health, the Director may bring an action in the Justice of the Peace Court, seeking the following relief:~~

~~(1) An injunction prohibiting such person from engaging in or continuing to engage in specific conduct which endangers the public health;~~

~~(2) Other appropriate court orders including, but not limited to, an order to take such person into custody, for a period not to exceed 72 hours, and place such person in a facility designated or approved by the Director.~~

~~(b) A custody order issued pursuant to subsection (a) of this section for the purpose of counseling and testing to determine whether such person has an STD of a communicable nature shall provide for the immediate release from custody and from the facility of any person who tests negative and may provide for counseling or other appropriate measures to be imposed on any person who tests positive. The subject of the order shall be given notice of the order promptly, personally and confidentially, stating the grounds and provisions of the order and notifying such person that if that person refuses to comply with such order that person has a right to be present at a hearing to review the order and that such person may have an attorney appear on that person's own behalf at the hearing. If such person contests testing or treatment, no invasive medical procedures shall be carried out prior to a hearing being held pursuant to~~

subsection (c) of this section. Nothing in this section shall be construed to deny a person, as an exercise of religious freedom, the right to rely solely on spiritual means through prayer to prevent or cure disease, provided that the person complies with all control measures, other than treatment, imposed by the health authority or the department that are reasonable and necessary to prevent the introduction, transmission and spread of the disease.

~~(c) Any order issued by the Justice of the Peace Court pursuant to subsection (a) or (b) of this section shall be subject to review in a court hearing. Notice of the place, date and time of the court hearing shall be given promptly, personally and confidentially to the subject of the court order by the sheriff of the appropriate county or by special process server appointed by the Court. Such hearing shall be conducted by the Court no later than 48 hours after the issuance of the order. Such person has a right to be present at the hearing and may have an attorney appear on that person's own behalf at the hearing. Upon conclusion of the hearing, the Court shall issue appropriate orders affirming, modifying or dismissing the order.~~

~~(d) The burden of proof shall be on the Director to show by clear and convincing evidence that grounds exist for the issuance of any court order pursuant to subsection (a), (b) or (c) of this section.~~

~~(e) Any hearing conducted by the Justice of the Peace Court pursuant to subsection (a), (b) or (c) of this section shall be closed and confidential, and any transcripts or records relating thereto shall also be confidential.~~

~~(f) Any order entered by the Justice of the Peace Court pursuant to subsection (a), (b) or (c) of this section shall impose terms and conditions no more restrictive than necessary to protect the public health. [Repealed.]~~

§ 706. Examination and treatment of ~~prisoners~~ offenders in the custody of the Department of Correction.

~~(a) Prison authorities of any state, county or city prison shall ensure that all persons confined or imprisoned in their respective prisons~~ The Department of Correction must ensure that offenders in their custody are provided services for the examination, treatment and cure, if possible, of STIs or STDs as may be required according to accepted medical practice. Prison medical staff ~~shall~~ must adhere to current STI or STD medical protocols established by the Division of Public Health for persons confined or imprisoned; ~~shall~~ must inform the Division of Public Health when a person or persons infected with or suspected to have an STI or STD is released from prison without completing appropriate treatment, ~~counseling~~ counseling, or examination; and ~~shall~~ must allow the Division of Public Health to examine medical records or other medical information to ensure that appropriate STI or STD medical practices are followed.

~~(b) Prison authorities of any state, county or city prison shall make available to the Division of Public Health such portion of any state, county or city prison as may be necessary to isolate or quarantine persons known or suspected to have an STD of a communicable nature under the provisions of §§ 703, 704 and 705 of this title, provided that no other suitable place for such isolation or quarantine is available, and shall cooperate with the Division of Public Health in the provision of care and treatment to such persons.~~

§ 707. Rules and regulations of Department.

~~(a) The Department of Health and Social Services shall make such rules and regulations as may in its judgment be necessary to carry out the provisions of this chapter, including rules and regulations designating STDs to be reported, providing for the control and treatment of persons isolated or quarantined, and such other rules and regulations, not in conflict with the provisions of this chapter, concerning the control of STDs, and concerning the care, treatment and quarantine of persons infected therewith, as it may from time to time deem advisable.~~

(a) The Department of Health and Social Services shall promulgate regulations necessary to carry out the provisions of this subchapter, including:

(1) Designation of reportable STIs or STDs.

(2) Procedures around the verification of the diagnosis, the investigations made to determine the source of infection, and other appropriate actions to prevent or control the spread of a reportable STI or STD.

(b) Regulations promulgated under this subchapter must be consistent with procedures established for communicable diseases in Chapter 5 of this title and with the nature and circumstances of the reportable STI or STD.

~~(b)~~ (c) All rules and regulations made pursuant to this ~~chapter~~ subchapter shall have the force and effect of law.

~~(e)~~ (d) The Department of Health and Social Services shall create the written materials required under § 703A of this title.

§ 708. Prenatal standard tests for syphilis, gonorrhea, ~~ehlamydia~~ chlamydia, and other STDs.

~~(a) Every health care professional qualified to attend a pregnant woman in this State during gestation shall take or cause to be taken suitable specimens of such woman and submit such specimens to an approved laboratory for standard tests for syphilis and gonorrhea, chlamydia and other such tests for STDs as may be designated by the Department of Health and Social Services. Every other person permitted by law to attend upon pregnant women in the State but not permitted by law to take such specimens shall cause such specimens of such pregnant woman to be~~

~~taken by a qualified health care professional and submitted to an approved laboratory for standard tests for gonorrhea, syphilis and chlamydia and other such tests for STDs as may be designated by the Department of Health and Social Services. The specimens shall be taken at the time of the first examination relating to the current pregnancy and a second specimen during the third trimester of pregnancy which is in addition to or exclusive of the test taken at delivery. Every pregnant woman shall permit the specimens to be taken by a qualified health care professional as herein provided. However, the Director or the Director's authorized deputy within the county wherein any person affected by this section resides may waive the requirements of this section if the Director or deputy is satisfied by written affidavit or other notarized written proof that the tests required by this section are contrary to the tenets and practices of the religious teachings of which the applicant is an adherent, and that the public health and welfare would not be injuriously affected by such waiver.~~

~~(b) The term "approved laboratory" means a laboratory approved for this purpose by the Department of Health and Social Services. Standard tests for syphilis, chlamydia and gonorrhea are ones recognized as such by the Department of Health and Social Services.~~

~~(c) The laboratory tests required by this section shall be made on request without charge by the Department of Health and Social Services.~~

(a) All health-care providers caring for pregnant persons must offer testing for STIs, STDs, and other relevant infections as prescribed by the American College of Obstetricians and Gynecologists (ACOG) including testing for syphilis, gonorrhea, chlamydia, hepatitis, and human immunodeficiency virus (HIV). Testing must be done as early as possible upon intake into prenatal care and subsequently at the intervals and time points prescribed by the ACOG.

(b) A pregnant person has the right to refuse consent to testing at any instance of testing and to refuse recommended treatment. Documentation of such refusal must be maintained in the patient's medical record.

(c) Patients refusing testing must be counseled by their healthcare provider on the risks associated with failing to recognize and treat STIs or STDs in pregnancy. Documentation of such counseling must be maintained in the patient's medical records.

~~§ 709. Authority to perform venipuncture.~~

~~Notwithstanding any other provision of law, a person employed by or detailed to the Division of Public Health as an STD case investigator may perform venipuncture or skin puncture for the purpose of withdrawing blood~~

for test purposes, even though the STD case investigator is not otherwise licensed to withdraw blood; provided that such person meets all the following requirements:

- (1) ~~The person works under the direction of licensed physician.~~
- (2) ~~The person has been trained by a licensed physician in the proper procedures to be employed when withdrawing blood, in accordance with training requirements established by the Division of Public Health, and has a statement signed by the instructing physician that such training has been completed. [Repealed.]~~

§ 710. Minors — Treatment, consent, and liability for payment for care.

Any health facility or health-care professional may examine and provide treatment for an STI or STD for any minor if such facility or professional is qualified to provide such examination or treatment. Consent to examination and treatment by a minor ~~shall be~~ is controlled by §§ 707 and 708 of Title 13. The health-care professional in charge or other appropriate authority of the health facility or the health-care professional concerned shall prescribe an appropriate course of treatment for such minor. The fact of consultation, ~~examination~~ examination, and treatment of such minor shall be strictly confidential and ~~shall~~ must not be divulged by the facility or the health-care professional, including sending of a bill for such services to any persons other than the minor, except as follows:

- (1) To persons providing consent pursuant to § 707 of Title 13 or persons informed of the minor's testing and treatment under § 708 of ~~Title 13~~; Title 13.
- (2) As is necessary to comply with the requirements of Chapter 9 of this title relating to child abuse ~~investigations~~; or investigations.
- (3) As is necessary to comply with the requirements of this chapter concerning the control and treatment of STIs or STDs, as well as the permitted dissemination of records and information under § 711 of this title.

§ 711. Confidentiality of records and information.

All information and records held by the Division of Public Health relating to known or suspected ~~causes~~ cases of STD, STIs or STDs, including infection with human immunodeficiency virus (~~HIV~~); (HIV) ~~the virus causing~~ Acquired Immunodeficiency Syndrome (AIDS), ~~shall be~~ are strictly confidential. Such information ~~shall~~ may not be released or made public upon subpoena or otherwise, except that release may be made under any of the following circumstances:

- (1) Release is made of medical or epidemiological information for statistical purposes so that no person can be ~~identified~~; identified.

(2) Release is made of medical or epidemiological information with the consent of all persons identified in the information ~~released~~; released.

(3) Release is made of medical or epidemiological information to medical personnel, appropriate state agencies, including the Maternal and Child Death Review Commission, or state courts to the extent required to enforce the provisions of this chapter and related rules and regulations concerning the control and treatment of STIs or STDs, or as related to child abuse investigations pursuant to Chapter 9 of this title, or as related to Maternal and Child Death Review Commission investigations pursuant to subchapter II of Chapter 3 of ~~Title 31~~; Title 31.

(4) Release is made of medical or epidemiological information to medical personnel in a medical emergency to the extent necessary to protect the health or life of the named ~~party~~; or party.

(5) Release is made during the course of civil or criminal litigation to a person allowed access to said records by a court order which is issued in compliance with the following provisions:

a. No court of this State shall issue such order unless the court finds that the person seeking the records and information has demonstrated a compelling need for such records which cannot be accommodated by other means. In assessing compelling need, the court shall weigh the need for disclosure against the privacy interest of the subject and the public interest which may be disserved by disclosure which deters future testing and treatment or which may lead to discrimination.

b. Pleadings pertaining to disclosure of such records shall substitute a pseudonym for the true name of the subject of the records. The disclosure to the parties of the subject's true name ~~shall be~~ must be communicated confidentially, in documents not filed with the court.

c. Before granting any such order, the court shall provide the subject whose records are in question with notice and a reasonable opportunity to participate in the proceedings if the subject is not already a party.

d. Court proceedings as to disclosure of such records shall be conducted in camera unless the subject agrees to a hearing in open court or unless the court determines that a public hearing is necessary to the public interest and the proper administration of justice.

e. Upon the issuance of an order to disclose such records, the court shall impose appropriate safeguards against unauthorized disclosure, which shall specify the persons who may have access to the information, the purposes for which the information shall be used, and appropriate prohibitions on future disclosures.

§ 712. Custodian of records.

No Department of Public Health and Social Services or local health department officer or employee shall be examined in a civil, criminal, special or other proceeding as to the existence or contents of pertinent records for a person examined or treated for an STI, ~~STD~~ STD, or HIV infection by the Division of Public Health, or of the existence of contents of such reports received from a private health-care professional or private health facility, without the consent of the person examined and treated for such diseases, except where the information in such records is disclosed pursuant to § 710 or § 711(2), (3) or (5) of this title.

§ 713. Penalties; jurisdiction.

(a) Except for § 702 of this title, whoever violates this chapter or any lawful rule or regulations made by the Department of Health and Social Services under § 707 of this title, or fails to obey any lawful order issued by the Director under this chapter shall be fined not less than \$100 nor more than \$1,000.

(b) Whoever violates § 702 of this title shall be fined not less than \$25 and not more than \$200 for each offense.

(c) Each separate day that a violation of this chapter as defined under subsections (a) and (b) of this section continues shall be deemed a separate offense for penalty purposes.

(d) Justices of the peace ~~shall~~ have jurisdiction of offenses under this chapter.

Approved July 23, 2026