

CHAPTER 2017-181

Committee Substitute for House Bill No. 1041

An act relating to laboratory screening; amending s. 381.004, F.S.; clarifying that certain requirements relating to the reporting of positive HIV test results to county health departments apply only to testing performed in a nonhealth care setting; amending s. 381.0202, F.S.; authorizing the Department of Health to perform laboratory testing for other states; amending s. 381.983, F.S.; redefining the term “elevated blood-lead levels”; amending s. 381.984, F.S.; revising provisions relating to a public information initiative on lead-based paint hazards; amending s. 381.985, F.S.; revising requirements for the State Surgeon General’s program for early identification of persons at risk of having elevated blood-lead levels; requiring the department to maintain records showing elevated blood-lead levels; requiring that health care providers report to the individual who was screened the results that indicate elevated blood-lead levels; amending s. 383.14, F.S.; authorizing the State Public Health Laboratory to release the results of a newborn’s hearing and metabolic tests to certain individuals; requiring the department to promote the availability of services to promote detection of genetic conditions; clarifying that the membership of the Genetics and Newborn Screening Advisory Council must include one member representing each of four medical schools in this state; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (a) of subsection (2) of section 381.004, Florida Statutes, is amended to read:

381.004 HIV testing.—

(2) HUMAN IMMUNODEFICIENCY VIRUS TESTING; INFORMED CONSENT; RESULTS; COUNSELING; CONFIDENTIALITY.—

(a) Before performing an HIV test:

1. In a health care setting, the person to be tested shall be notified orally or in writing that the test is planned and that he or she has the right to decline the test. If the person to be tested declines the test, such decision shall be documented in the medical record. A person who has signed a general consent form for medical care is not required to sign or otherwise provide a separate consent for an HIV test during the period in which the general consent form is in effect.

2. In a nonhealth care setting, a provider shall obtain the informed consent of the person upon whom the test is to be performed. Informed consent shall be preceded by an explanation of the right to confidential treatment of information identifying the subject of the test and the results of

the test as provided by law. The provider shall also inform the test subject that a positive HIV test result will be reported to the county health department with sufficient information to identify the test subject and provide him or her with information on the availability and location of sites where anonymous testing is performed. As required in paragraph (3)(c), each county health department shall maintain a list of sites where anonymous testing is performed which includes site locations, telephone numbers, and hours of operation.

~~The test subject shall also be informed that a positive HIV test result will be reported to the county health department with sufficient information to identify the test subject and of the availability and location of sites at which anonymous testing is performed. As required in paragraph (3)(c), each county health department shall maintain a list of sites at which anonymous testing is performed, including the locations, telephone numbers, and hours of operation of the sites.~~

Section 2. Section 381.0202, Florida Statutes, is amended to read:

381.0202 Laboratory services.—

(1) The department shall establish and maintain, in suitable and convenient places in the state, laboratories for microbiological and chemical analyses and any other purposes it determines necessary for the protection of the public health.

(2) The department may contract or agree with any person or public or private agency to provide laboratory services relating to or having potential impact on the public health or relating to the health of clients directly under the care of the state.

(3) The department is authorized to establish and collect reasonable fees and charges for laboratory services provided. Such fees and charges shall be deposited in a trust fund administered by the department and shall be used solely for this purpose.

(4) The department may perform laboratory testing related to public health for other states on a fee-for-service basis.

Section 3. Subsection (3) of section 381.983, Florida Statutes, is amended to read:

381.983 Definitions.—As used in this act, the term:

(3) “Elevated blood-lead level” means a quantity of lead in the whole venous blood, measured from a venous or capillary draw expressed in micrograms per deciliter (ug/dL), which exceeds the cutpoint specified in department rule. The determination of elevated blood-lead level must be based on national recommendations developed by the Council of State and Territorial Epidemiologists and the Centers for Disease Control and Prevention. 10 ug/dL or such other level as specifically provided in this act.

Section 4. Subsections (2) and (3) of section 381.984, Florida Statutes, are amended to read:

381.984 Educational programs.—

(2) PUBLIC INFORMATION INITIATIVE.—The Governor, in conjunction with the State Surgeon General and his or her designee, shall sponsor a series of public service announcements on radio, on television, on the Internet, or in ~~and~~ print media about the nature of lead-based-paint hazards, the importance of standards for lead poisoning prevention in properties, and the purposes and responsibilities set forth in this act. In developing and coordinating this public information initiative, the sponsors shall seek the participation and involvement of private industry organizations, including those involved in real estate, insurance, mortgage banking, or and pediatrics.

(3) DISTRIBUTION OF INFORMATION LITERATURE ABOUT CHILDHOOD LEAD POISONING.—~~By January 1, 2007,~~ The State Surgeon General or his or her designee shall develop culturally and linguistically appropriate information and distribution methods ~~pamphlets~~ regarding childhood lead poisoning, the importance of testing for elevated blood-lead levels, prevention of childhood lead poisoning, treatment of childhood lead poisoning, and, as ~~where~~ appropriate, the requirements of this act. This ~~These~~ information ~~pamphlets~~ shall be distributed to parents or ~~the other~~ legal guardians of children 6 years of age or younger on the following occasions:

(a) By a health care provider at the time of a child's birth and at the time of any childhood immunization or vaccination unless it is established that such information ~~pamphlet~~ has been provided ~~previously~~ to the parent or legal guardian by the health care provider within the prior 12 months.

(b) By the owner or operator of any child care facility or preschool or kindergarten class on or before each October 15 ~~of the calendar year~~.

Section 5. Section 381.985, Florida Statutes, is amended to read:

381.985 Screening program.—

(1) The State Surgeon General shall establish guidelines ~~a program~~ for early identification of persons at risk of having elevated blood-lead levels and for the systematic screening of . ~~Such program shall systematically screen~~ children under 6 years of age in the target populations identified in subsection (2) for the presence of elevated blood-lead levels. Children within the specified target populations shall be screened with a blood-lead test at age 12 months and age 24 months, or between the ages of 36 months and 72 months if they have not previously been screened. The State Surgeon General shall, after consultation with recognized professional medical groups and such other sources as the State Surgeon General deems appropriate, adopt rules to follow established national guidelines or

recommendations such as those issued by the Council of State and Territorial Epidemiologists and the Centers for Disease Control and Prevention related to reporting elevated blood-lead levels and screening results to the department pursuant to this section. ~~promulgate rules establishing:~~

~~(a) The means by which and the intervals at which such children under 6 years of age shall be screened for lead poisoning and elevated blood-lead levels.~~

~~(b) Guidelines for the medical followup on children found to have elevated blood-lead levels.~~

(2) In developing screening programs to identify persons at risk with elevated blood-lead levels, priority shall be given to persons within the following categories:

(a) All children enrolled in the Medicaid program at ages 12 months and 24 months, or between the ages of 36 months and 72 months if they have not previously been screened.

(b) Children under the age of 6 years exhibiting delayed cognitive development or other symptoms of childhood lead poisoning.

(c) Persons at risk residing in the same household, or recently residing in the same household, as another person at risk with an elevated a blood-lead level of 10 ug/dL or greater.

(d) Persons at risk residing, or who have recently resided, in buildings or geographical areas in which significant numbers of cases of lead poisoning or elevated blood-lead levels have recently been reported.

(e) Persons at risk residing, or who have recently resided, in an affected property contained in a building that during the preceding 3 years has been subject to enforcement for violations of lead-poisoning-prevention statutes, ordinances, rules, or regulations as ~~specified by the State Surgeon General.~~

(f) Persons at risk residing, or who have recently resided, in a room or group of rooms contained in a building whose owner also owns a building containing affected properties which, during the preceding 3 years, has been subject to an enforcement action for a violation of lead-poisoning-prevention statutes, ordinances, rules, or regulations.

(g) Persons at risk residing in other buildings or geographical areas in which the State Surgeon General reasonably determines there is to be a significant risk of affected individuals having an elevated blood-lead level. a blood-lead level of 10 ug/dL or greater.

(3) ~~The department~~ State Surgeon General shall maintain comprehensive records of all screenings indicating an elevated blood-lead level. ~~conducted pursuant to this section. Such records shall be indexed~~

~~geographically and by owner in order to determine the location of areas of relatively high incidence of lead poisoning and other elevated blood-lead levels.~~

~~All cases or probable cases of lead poisoning found in the course of screenings conducted pursuant to this section shall be reported to the affected individual, to his or her parent or legal guardian if he or she is a minor, and to the State Surgeon General.~~

(4) The results of screenings conducted pursuant to this section shall be reported by the health care provider who conducted or ordered the screening to the individual who was screened, or to the individual's parent or legal guardian if he or she is a minor.

Section 6. Paragraph (c) of subsection (1), paragraph (f) of subsection (3), and subsection (5) of section 383.14, Florida Statutes, are amended to read:

383.14 Screening for metabolic disorders, other hereditary and congenital disorders, and environmental risk factors.—

(1) SCREENING REQUIREMENTS.—To help ensure access to the maternal and child health care system, the Department of Health shall promote the screening of all newborns born in Florida for metabolic, hereditary, and congenital disorders known to result in significant impairment of health or intellect, as screening programs accepted by current medical practice become available and practical in the judgment of the department. The department shall also promote the identification and screening of all newborns in this state and their families for environmental risk factors such as low income, poor education, maternal and family stress, emotional instability, substance abuse, and other high-risk conditions associated with increased risk of infant mortality and morbidity to provide early intervention, remediation, and prevention services, including, but not limited to, parent support and training programs, home visitation, and case management. Identification, perinatal screening, and intervention efforts shall begin prior to and immediately following the birth of the child by the attending health care provider. Such efforts shall be conducted in hospitals, perinatal centers, county health departments, school health programs that provide prenatal care, and birthing centers, and reported to the Office of Vital Statistics.

(c) *Release of screening results.*—Notwithstanding any law to the contrary, the State Public Health Laboratory may release, directly or through the Children's Medical Services program, the results of a newborn's hearing and metabolic tests or screenings to the newborn's health care practitioner, the newborn's parent or legal guardian, the newborn's personal representative, or a person designated by the newborn's parent or legal guardian. As used in this paragraph, the term "health care practitioner" means a physician or physician assistant licensed under chapter 458; an osteopathic physician or physician assistant licensed under chapter 459; an advanced registered nurse practitioner, registered nurse, or licensed

practical nurse licensed under part I of chapter 464; a midwife licensed under chapter 467; a speech-language pathologist or audiologist licensed under part I of chapter 468; or a dietician or nutritionist licensed under part X of chapter 468.

(3) DEPARTMENT OF HEALTH; POWERS AND DUTIES.—The department shall administer and provide certain services to implement the provisions of this section and shall:

(f) Promote the availability of genetic studies, services, and counseling in order that the parents, siblings, and affected newborns may benefit from detection and available knowledge of the condition.

All provisions of this subsection must be coordinated with the provisions and plans established under this chapter, chapter 411, and Pub. L. No. 99-457.

(5) ADVISORY COUNCIL.—There is established a Genetics and Newborn Screening Advisory Council made up of 15 members appointed by the State Surgeon General. The council shall be composed of two consumer members, three practicing pediatricians, at least one of whom must be a pediatric hematologist, a ~~one~~ representative from each of the four medical schools in this ~~the~~ state, the State Surgeon General or his or her designee, one representative from the Department of Health representing Children's Medical Services, one representative from the Florida Hospital Association, one individual with experience in newborn screening programs, one individual representing audiologists, and one representative from the Agency for Persons with Disabilities. All appointments shall be for a term of 4 years. The chairperson of the council shall be elected from the membership of the council and shall serve for a period of 2 years. The council shall meet at least semiannually or upon the call of the chairperson. The council may establish ad hoc or temporary technical advisory groups to assist the council with specific topics which come before the council. Council members shall serve without pay. Pursuant to the provisions of s. 112.061, the council members are entitled to be reimbursed for per diem and travel expenses. It is the purpose of the council to advise the department about:

(a) Conditions for which testing should be included under the screening program and the genetics program.

(b) Procedures for collection and transmission of specimens and recording of results.

(c) Methods whereby screening programs and genetics services for children now provided or proposed to be offered in the state may be more effectively evaluated, coordinated, and consolidated.

Section 7. This act shall take effect July 1, 2017.

Approved by the Governor June 26, 2017.

Filed in Office Secretary of State June 26, 2017.