

ASSEMBLY BILL NO. 243—ASSEMBLYMEN THOMPSON, TITUS,
ARAUJO; SILBERKRAUS AND SPRINKLE

MARCH 9, 2015

JOINT SPONSORS: SENATORS ATKINSON,
SPEARMAN; AND MANENDO

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions relating to testing for the human immunodeficiency virus. (BDR 40-117)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to public health; requiring a county, provider of health care or medical facility to ensure that a person who tests positive on a rapid test for the human immunodeficiency virus is counseled to receive a second test to confirm the result; revising the qualifications of a person that only performs certain tests for the detection of the human immunodeficiency virus in a medical laboratory; providing that the laboratory director of a laboratory that only conducts certain tests for the detection of the human immunodeficiency virus may not be required to be a physician or perform any duties not prescribed by statute; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law requires counties, providers of health care and medical facilities to
- 2 provide or ensure the provision of counseling to each person who tests positive for
- 3 the human immunodeficiency virus. (NRS 441A.336) **Section 1** of this bill requires
- 4 a county, provider of health care or medical facility to counsel a person who has
- 5 received a positive result on a rapid test for the human immunodeficiency virus
- 6 concerning the need for the person to receive a second test to confirm the result.
- 7 Existing law prohibits persons other than certain licensed health care
- 8 professionals from manipulating a person for the collection of specimens.



(NRS 652.210) **Sections 2 and 4** of this bill authorize a person who has not obtained such a license or certification to perform certain tests for the detection of the human immunodeficiency virus if the person has received training concerning the administration of such a test, infection control procedures and counseling for persons who test positive.

Existing law requires the director of a medical laboratory to supervise laboratory procedures, report the findings of laboratory tests, ensure compliance with requirements governing medical laboratories, be responsible for all work performed in the laboratory and retain certain records. (NRS 652.180) **Section 3** of this bill prevents the State Board of Health from prescribing additional duties for the director of such a laboratory.

Existing law authorizes the State Board of Health to prescribe the education, training and experience qualifications of the directors of medical laboratories. (NRS 652.130) **Section 3** prevents the Board from requiring the director of a laboratory that only performs certain tests for the detection of the human immunodeficiency virus to be a licensed physician.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 441A.336 is hereby amended to read as follows:

441A.336 1. Counties, providers of health care and medical facilities that provide testing for the human immunodeficiency virus shall provide, or ensure the provision of, to each person who tests positive for the human immunodeficiency virus, a counseling session that is appropriate and acceptable under current medical and public health practices, as recommended by the Board.

2. Counseling required pursuant to this section must address, without limitation:

(a) The meaning of the positive result of the test;

(b) Any follow-up testing for the person ~~H~~, *including, without limitation, an additional test to confirm the results of a rapid test to be performed with a more accurate test or a different rapid test that is approved by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services for the purpose of confirming the positive result of a rapid test;*

(c) Methods for preventing the transmission of the human immunodeficiency virus;

(d) Medical treatment available for the person;

(e) The confidentiality of the result of the test; and

(f) Recommended testing for the human immunodeficiency virus for sexual partners of the person.

3. Counties, providers of health care and medical facilities that provide testing for the human immunodeficiency virus shall offer to



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each person who tests positive for the human immunodeficiency virus:

(a) Appropriate referrals for future services, including, without limitation, medical care, mental health care and addiction services; or

(b) If unable to provide referrals pursuant to paragraph (a), referral to the local health authority for a subsequent referral to providers within the community for future services, including, without limitation, medical care, mental health care and addiction services.

4. The Director of the Department of Health and Human Services may adopt regulations to carry out the provisions of this section.

5. As used in this section, "rapid test" means a test that:

(a) Is used to detect the presence of antibodies to the human immunodeficiency virus; and

(b) Provides a result in 30 minutes or less.

Sec. 2. Chapter 652 of NRS is hereby amended by adding thereto a new section to read as follows:

A person may perform a test for the detection of the human immunodeficiency virus that is classified as a waived test pursuant to Subpart A of Part 493 of Title 42 of the Code of Federal Regulations in a medical laboratory without obtaining certification as an assistant in a medical laboratory pursuant to NRS 652.127 or a license or certification described in NRS 652.210 if the person submits proof of successful completion of training that has been approved by the Division concerning:

1. The administration of such a test;

2. Infection control procedures recommended by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services and the Occupational Safety and Health Administration of the United States Department of Labor;

3. Reporting of communicable diseases as required by NRS 441A.150 and any regulations adopted pursuant to chapter 441A of NRS; and

4. Counseling and referrals to be provided to persons who test positive for the human immunodeficiency virus, including, without limitation, counseling provided pursuant to NRS 441A.336.

Sec. 3. NRS 652.130 is hereby amended to read as follows:

652.130 **1.** Except as otherwise provided in NRS 652.127, the Board, with the advice of the Medical Laboratory Advisory Committee, may prescribe and publish rules and regulations relating to:



~~1-1~~ (a) The education, training and experience qualifications of laboratory directors and technical personnel.

~~1-2~~ (b) The location and construction of laboratories, including plumbing, heating, lighting, ventilation, electrical services and similar conditions, to ensure the conduct and operation of the laboratory in a manner which will protect the public health.

~~1-3~~ (c) Sanitary conditions within the laboratory and its surroundings, including the water supply, sewage, the handling of specimens and matters of general hygiene, to ensure the protection of the public health.

~~1-4~~ (d) The equipment essential to the proper conduct and operation of a laboratory.

~~1-5~~ (e) The determination of the accuracy of test results produced by a laboratory and the establishment of minimum qualifications therefor.

2. Any regulations adopted by the Board pursuant to this section must not require that the laboratory director of a laboratory in which the only test performed is a test for the detection of the human immunodeficiency virus that is classified as a waived test pursuant to Subpart A of Part 493 of Title 42 of the Code of Federal Regulations:

(a) Be a licensed physician; or

(b) Perform duties other than those prescribed in NRS 652.180.

Sec. 4. NRS 652.210 is hereby amended to read as follows:

652.210 1. Except as otherwise provided in subsection 2 and NRS 126.121, *and section 2 of this act*, no person other than a licensed physician, a licensed optometrist, a licensed practical nurse, a registered nurse, a perfusionist, a physician assistant licensed pursuant to chapter 630 or 633 of NRS, a certified advanced emergency medical technician, a certified paramedic, a practitioner of respiratory care licensed pursuant to chapter 630 of NRS or a licensed dentist may manipulate a person for the collection of specimens. The persons described in this subsection may perform any laboratory test which is classified as a waived test pursuant to Subpart A of Part 493 of Title 42 of the Code of Federal Regulations without obtaining certification as an assistant in a medical laboratory pursuant to NRS 652.127.

2. The technical personnel of a laboratory may collect blood, remove stomach contents, perform certain diagnostic skin tests or field blood tests or collect material for smears and cultures.

Sec. 5. Any regulations that conflict with section 3 of this act are void and unenforceable.

