



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Audra Tidball

H.B. 613

132nd General Assembly
(As Introduced)

Reps. West and Galonski, Leland, Seitz, Ashford

BILL SUMMARY

- Requires a pregnant woman to be tested for the human immunodeficiency virus (HIV) as follows, unless the woman refuses the test:
 - At her first prenatal appointment.
 - At her first appointment of the third trimester if no test has been conducted during the pregnancy or if, based on a required assessment, activities posing a risk of HIV infection have occurred.
 - At delivery if no third trimester test was conducted or if, based on a review of medical records and an assessment at the time of delivery, activities posing a risk of HIV infection have occurred.
 - Requires a pregnant woman to be tested for syphilis and gonorrhea at her first appointment of the third trimester if no prior test was conducted or if, based on a required assessment, activities posing a risk of infection have occurred.
-

CONTENT AND OPERATION

Testing for HIV

The bill generally requires a pregnant woman to be tested for the human immunodeficiency virus (HIV) at various times during pregnancy, unless the woman refuses. Under current law, generally applicable HIV testing provisions permit, but do

not require, an HIV test, if the individual has consented to medical or other health care treatment.¹

The bill's requirements regarding HIV tests for pregnant women apply to the following licensed health care professionals: (1) physicians, (2) clinical nurse specialists, certified nurse-midwives, and certified nurse practitioners, and (3) physician assistants.²

Testing during pregnancy

The bill requires a licensed health care professional who provides prenatal care to a pregnant woman to do both of the following, unless the woman refuses:

(1) **First trimester testing** – test the woman for HIV during her first prenatal visit;³

(2) **Third trimester assessment and testing** – test the woman for HIV during the first prenatal visit of the third trimester if no test has been conducted during the pregnancy or the health care professional determines that activities posing a risk of HIV infection have occurred since the most recent HIV test, if any.⁴

To determine if a third trimester test is required, the bill requires a licensed health care professional to conduct an assessment during the first prenatal visit of the third trimester to determine whether any activities posing a risk of HIV infection have occurred. In conducting the assessment, the health care professional must consider information available from the U.S. Centers for Control and Prevention (CDC) concerning risk factors for transmission.⁵

Testing at delivery

The bill requires a licensed health care professional who provides care to a pregnant woman at delivery to determine whether the woman's medical records indicate that an HIV test was conducted during the third trimester. If not, the health care professional must test the woman at delivery unless she refuses.

¹ R.C. 3701.242, not in the bill.

² R.C. 3701.2410(A).

³ R.C. 3701.2410(B)(1).

⁴ R.C. 3701.2410(B)(2).

⁵ *Id.*

If a third trimester test was conducted, the health care professional must determine whether activities posing a risk of infection have occurred since the most recent test. In doing so, the health care professional must consider CDC risk factors for transmission and ask the woman about such activities. If the health care professional determines such activities have occurred, the professional must test the woman unless she refuses.⁶

Informing the woman

The bill requires that before an HIV test is conducted, the licensed health care professional must inform the woman that the test will be conducted and of her right to refuse.⁷ This clarifies existing law, because while the Revised Code permits an HIV test to be conducted when an individual has consented to medical or other health care treatment, the Administrative Code appears to require consent for the HIV test itself (except when an exception applies); both the Revised Code and Administrative Code require that an individual be informed of the right to an anonymous HIV test.⁸

Multiple providers

If a pregnant woman sees multiple health care providers for prenatal care, the bill's testing requirements apply only to the first examination by any licensed health care professional. If a woman's medical records indicate another licensed health care professional has complied with any given testing requirement for the pregnancy, the treating provider is not required to also comply with that requirement.⁹

Positive test results

The bill requires licensed health care professionals to provide post-test counseling in the event of a positive test. The counseling must be conducted in accordance with existing law governing counseling for positive HIV tests, which requires that counseling include information about the HIV test result; the next step to confirm the test result; the nature of HIV; resources for medical treatment, social services, and further counseling; the importance of following safer sex practices; and Ohio's HIV disclosure laws.¹⁰

⁶ R.C. 3701.2410(C).

⁷ R.C. 3701.2410(D)(1).

⁸ R.C. 3701.242(A), not in the bill and Ohio Administrative Code (O.A.C.) 3701-3-11.

⁹ R.C. 3701.2410(D)(2).

¹⁰ R.C. 3701.2410(E) (referring to R.C. 3701.242, not in the bill) and O.A.C. 3701-3-11.

Documentation

The bill requires both of the following to be recorded in a woman's medical records:

- (1) Tests or assessments conducted by licensed health care professionals in accordance with the bill;
- (2) Any refusal of an HIV test offered.¹¹

Rulemaking

The bill authorizes the Director of Health to adopt rules as the Director considers appropriate to implement the bill. The rules must be adopted in accordance with the Administrative Procedure Act (R.C. Chapter 119.).¹²

Testing for syphilis and gonorrhea during pregnancy

Similar to the HIV provisions discussed above, the bill adds to existing law a third trimester testing requirement for syphilis and gonorrhea. Current law already requires a physician to test a pregnant woman for syphilis and gonorrhea within ten days of the first examination. The tests are required unless it is the opinion of the physician that the woman's condition does not permit taking specimens for such tests. If no tests are conducted, specimens must be taken as soon after delivery as the physician deems advisable. Current law also permits the local health commissioner to waive the test requirement if the tests are contrary to the woman's religious beliefs.¹³

Under the bill, a licensed health care professional¹⁴ must conduct an assessment during the first examination of the third trimester to determine whether any activities posing a risk of infection with syphilis or gonorrhea have occurred since the most recent test, if any. In conducting the assessment, the health care professional must consider CDC information concerning risk factors for transmission.

Unless the woman refuses, or the health care professional determines the woman's condition does not permit the test to be conducted, a test for syphilis and gonorrhea must be conducted if no such test was previously conducted during the

¹¹ R.C. 3701.2410(F).

¹² R.C. 3701.2410(G).

¹³ R.C. 3701.50(B).

¹⁴ "Licensed health care professional" includes physicians, clinical nurse specialists, certified nurse-midwives, certified nurse practitioners, and physician assistants. R.C. 3701.50(A).

pregnancy, or if the health care professional determines that activities posing a risk of infection have occurred more recently than the most recent test. If the assessment is not conducted because the health care professional determines the woman's condition does not permit the test, the test must be conducted after delivery in accordance with existing law.¹⁵

Similar to the HIV testing provisions described above, the bill contains the following provisions applicable to third trimester syphilis and gonorrhea tests:

(1) The woman must be informed of the test and her right to refuse;¹⁶

(2) In the case of multiple providers, a woman does not need to be retested if another provider has already complied with the bill's requirements;¹⁷

(3) Tests, assessments, and refusals must be documented in the woman's medical record.¹⁸

HISTORY

ACTION

DATE

Introduced

04-24-18

H0613-I-132.docx/ts

¹⁵ R.C. 3701.50(C)(1).

¹⁶ R.C. 3701.50(C)(2).

¹⁷ R.C. 3701.50(C)(3).

¹⁸ R.C. 3701.50(C)(4).

