

SENATE AMENDMENTS TO SENATE BILL 1507

By COMMITTEE ON HEALTH CARE, HUMAN SERVICES AND RURAL HEALTH
POLICY

February 7

1 On page 1 of the printed bill, delete lines 5 through 30.

2 On page 2, delete lines 1 through 31 and insert:

3 “**SECTION 1.** ORS 433.045 is amended to read:

4 “433.045. (1) **As used in this section:**

5 “(a) **‘Health care provider’ means an individual licensed by a health professional regula-**
6 **tory board, as that term is defined in ORS 676.160.**

7 “(b) **‘HIV test’ means a test of an individual for the presence of HIV, or for antibodies**
8 **or antigens that result from HIV infection, or for any other substance specifically indicating**
9 **infection with HIV.**

10 “(c) **‘Insurance producer’ has the meaning given that term in ORS 746.600.**

11 “(d) **‘Insurance-support organization’ has the meaning given that term in ORS 746.600.**

12 “(e) **‘Insurer’ has the meaning given that term in ORS 731.106.**

13 “[~~(1)~~] (2) Except as provided in [~~subsection (6) of this section and~~] ORS 433.017, 433.055 (3) and
14 433.080, [~~no person shall subject the blood of an individual to an HIV test without first obtaining in-~~
15 ~~formed consent as described in subsection (2) or (7) of this section]~~ **a health care provider or the**
16 **provider’s designee shall, before subjecting an individual to an HIV test:**

17 “(a) **Notify the individual being tested; and**

18 “(b) **Allow the individual being tested the opportunity to decline the test.**

19 “[~~2~~] (2) *A physician licensed under ORS chapter 677 shall comply with the requirement of subsection*
20 *(1) of this section through the procedure in ORS 677.097. Any other licensed health care provider or*
21 *facility shall comply with the requirement of subsection (1) of this section through a procedure sub-*
22 *stantially similar to that specified in ORS 677.097. Any other person shall comply with this requirement*
23 *through use of such forms, procedures and educational materials as the Oregon Health Authority shall*
24 *specify.*]

25 “(3) **The notification and opportunity to decline testing required under subsection (2) of**
26 **this section may be verbal or in writing, and may be contained in a general medical consent**
27 **form.**

28 “[~~3~~] (4)(a) Regardless of the manner of receipt or the source of the information, including in-
29 formation received from the tested individual, [~~no person shall~~] **a person may not** disclose or be
30 compelled to disclose the identity of any individual upon whom an HIV-related test is performed, or
31 the results of such a test in a manner [~~which~~] **that** permits identification of the subject of the test,
32 except as required or permitted by federal law, the law of this state or any rule, including any au-
33 thority rule considered necessary for public health or health care purposes, or as authorized by the
34 individual whose blood is tested.

35 “(b) **This subsection does not apply to an individual acting in a private capacity and not**

1 **in an employment, occupational or professional capacity.**

2 “[~~(4)~~] **(5)** [*Any*] **A** person who complies with the requirements of this section [*shall not be*] **is**
3 **not** subject to an action for civil damages.

4 “[~~(5)~~] *An HIV test shall be considered diagnosis of venereal disease for purposes of ORS 109.610.*]

5 “[~~(6)~~] *The authority shall prescribe by rule a procedure whereby an individual who is housed in a*
6 *state institution and is incapable of granting informed consent for an HIV test may be tested.*]

7 “[~~(7)~~] **(6)** Whenever an insurer, insurance producer or insurance-support organization asks an
8 applicant for insurance to take an HIV test in connection with an application for insurance, the
9 [*use of such a test must be revealed to the applicant and the written consent thereof obtained.*] **insurer,**
10 **insurance producer or insurance-support organization must reveal the use of the test to the**
11 **applicant and obtain the written consent of the applicant.** The consent form [*shall*] **must** dis-
12 close the purpose of the test and the persons to whom the results may be disclosed.

13 “[~~(8)~~] *As used in this section:*]

14 “[*(a) ‘HIV test’ means a test of an individual for the presence of human immunodeficiency virus*
15 *(HIV), or for antibodies or antigens that result from HIV infection, or for any other substance specif-*
16 *ically indicating infection with HIV.*]

17 “[*(b) ‘Person’ includes but is not limited to any health care provider, health care facility, clinical*
18 *laboratory, blood or sperm bank, insurer, insurance producer, insurance-support organization, as de-*
19 *defined in ORS 746.600, government agency, employer, research organization or agent of any of them.*
20 *For purposes of subsection (3) of this section, ‘person’ does not include an individual acting in a private*
21 *capacity and not in an employment, occupational or professional capacity.*]

22 “[*(c) ‘State institution’ means all campuses of the Oregon State Hospital, the Blue Mountain Re-*
23 *covery Center and the Eastern Oregon Training Center.*”].

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