

Senate Bill 438

Sponsored by Senator MANNING JR, Representatives WILDE, NOBLE, Senator LIEBER; Representative LEVY
(Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Allows physician assistant to receive results of blood test of source person on behalf of certain person who, in performance of person's official duties, comes into contact with blood, bodily fluid or other potentially infectious material of source person.

A BILL FOR AN ACT

1
2 Relating to physician assistants; amending ORS 431A.570.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 431A.570 is amended to read:

5 431A.570. (1) As used in this section:

6 (a) "Communicable disease" has the meaning given that term in ORS 431A.005.

7 (b) "Good faith effort to obtain the voluntary consent of the source person" includes a good faith
8 effort to locate or contact the source person.

9 (c) "Significant exposure" means direct contact with blood, bodily fluids or other potentially
10 infectious materials of a person, and the contact is capable of transmitting a communicable disease.

11 (2) Notwithstanding any other provision of law, an employee of the Department of Corrections,
12 a law enforcement officer as defined in ORS 414.805, a parole and probation officer as defined in
13 ORS 181A.355, a corrections officer as defined in ORS 181A.355, an emergency medical services
14 provider as defined in ORS 682.025, a licensed health care provider as defined in ORS 433.060 or a
15 firefighter who, in the performance of the person's official duties, comes into contact with the blood,
16 bodily fluid or other potentially infectious material of another person may petition the circuit court
17 for an order compelling the testing of the source person for a communicable disease, provided that
18 the person making the petition has first made a good faith effort to obtain the voluntary consent
19 of the source person to be tested for a communicable disease.

20 (3) A petition submitted under this section must:

21 (a) Set forth the facts and circumstances of the contact with the source person and the reasons
22 the petitioner and a medically trained person representing the petitioner, if available, believe the
23 contact with the source person constitutes significant exposure and that testing is appropriate;

24 (b) If a medically trained person is not available to represent the petitioner, include the reason
25 for the unavailability;

26 (c) Include information sufficient to identify the source person and the location of the source
27 person, if known; and

28 (d) Include a statement by the petitioner attesting to having made a good faith effort to obtain
29 the voluntary consent of the source person to be tested for a communicable disease.

30 (4) The circuit court shall hold an ex parte hearing in person, by telephone or by other appro-

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 puate means no later than three judicial days after receiving a petition under this section. Upon
2 a finding that the requirements of subsection (3) of this section have been met and a showing that
3 the circumstances create probable cause to conclude that the petitioner's contact with the source
4 person constitutes significant exposure, the court shall order the testing of the source person. The
5 court shall issue the order no later than four judicial days after receiving a petition under this
6 section.

7 (5) If the circuit court orders a test under subsection (4) of this section:

8 (a) The order shall direct the source person to allow a test to be performed by a licensed health
9 care provider, without delay, for a communicable disease that may be transmitted by the type of
10 contact that occurred and may specify the date by which the test must be completed. If the source
11 person is in custody or otherwise subject to the legal control of another person, the order may be
12 directed to the agency with custody of, or the other person with legal control over, the source
13 person. The order may direct the agency or other person to provide the source person with a copy
14 of the order. The order may contain any directions necessary to ensure that the test is performed.

15 (b) The petitioner shall designate a physician, **physician assistant** or nurse practitioner to re-
16 ceive the results of the test on behalf of the petitioner.

17 (c) The order must inform the source person, or the agency with custody of or other person with
18 legal control over the source person, of:

19 (A) The physician, **physician assistant** or nurse practitioner who is to receive the results of
20 the test on behalf of the petitioner; and

21 (B) How to obtain payment for costs under subsection (8) of this section.

22 (d) The order must be served on the source person, or the agency with custody of or other
23 person with legal control over the source person, in the manner directed by the court. The court
24 may provide for service of the order by any means appropriate to the circumstances of the source
25 person, including directing the petitioner or the sheriff to serve the order. The costs associated with
26 serving the order must be paid as provided under subsection (8) of this section.

27 (e) The order is enforceable through the contempt powers of the court.

28 (6) The results of a test ordered under this section:

29 (a) Are confidential and not subject to public disclosure under ORS 192.311 to 192.478; and

30 (b) May be made available only to the physician, **physician assistant** or nurse practitioner
31 designated by the petitioner to receive the results of the test, the Oregon Health Authority and the
32 source person.

33 (7) Blood, bodily fluids or other potentially infectious materials taken from a source person for
34 the purpose of performing a test under this section:

35 (a) May not be used for a civil or criminal investigation or as evidence in civil or criminal
36 proceeding; and

37 (b) May be retained only as long as necessary to confirm the results of a test performed under
38 this section.

39 (8) A charge or filing fee may not be imposed for the filing of a petition under this section. The
40 cost of any testing ordered under this section shall be the responsibility of the employer of the
41 petitioner.

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