

/* Alabama has enacted statutes concerning testing and confidentiality; counseling and referral; and regulations for infected healthcare workers. */.

22-11A-17. Testing of correctional facility inmates for sexually transmitted diseases; treatment; discharge of infectious inmates; victim may request results of HIV testing.

(a) All persons sentenced to confinement or imprisonment in any city or county jail or any state correctional facility for 30 or more consecutive days shall be tested for those sexually transmitted diseases designated by the State Board of Health, upon entering the facility, and any inmate so confined for more than 90 days shall be examined for those sexually transmitted diseases 30 days before release. The results of any positive or reactive tests shall be reported as provided in Section 22-11A-14. Additionally, the results of any positive or negative test for HIV of a sexual offender shall be provided to the State Health Officer or his or her designee as provided in Section 22-11A-14. The provisions of this section shall not be construed to require the testing of any person held in a city or county jail awaiting removal to a state correctional facility.

(b) The authorities of any state, county or city facility shall provide for treatment of any inmate diagnosed with a treatable sexually transmitted disease and not otherwise financially able to pay for such treatment. In the case of a discharge inmate who is infectious, a written notice shall be submitted to the State Health Officer or to the county health officer of the locality to which the prisoner is returned, setting forth the necessary facts and a record of the treatment administered while in custody.

(c) At the request of the victim of a sexual offense (as defined in Section 13A-6-60, et seq.), the State Health Department shall release the results of any tests on the defendant convicted of such sexual offense, for the presence of etiologic agent for Acquired Immune Deficiency Syndrome (AIDS or HIV) to the victim of such sexual offense. The State Health Department shall also provide the victim of such sexual offense counsel regarding AIDS disease, AIDS testing, in accordance with applicable law and referral for appropriate health care and support services.

22-11A-38. Notification of third parties of disease; rules; who may be notified; liability; confidentiality; disclosure of

information for certain criminal proceedings; penalty.

(a) The State Committee of Public Health is hereby authorized to establish the rules by which exceptions may be made to the confidentiality provisions of this chapter and establish rules for notification of third parties of such disease when exposure is indicated or a threat to the health and welfare of others. All notifications authorized by this section shall be within the rules established pursuant to this subsection.

(b) Physicians and hospital administrators or their designee may notify pre-hospital transport agencies and emergency medical personnel of a patient's contagious condition. In case of a death in which there was a known contagious disease, the physician or hospital administrator or their designee may notify the funeral home director.

(c) The attending physician or the State Health Officer or his designee may notify the appropriate superintendent of education when a student or employee has a contagious disease that endangers the health and welfare of others.

(d) Physicians or the State Health Officer or his designee may notify a third party of the presence of a contagious disease in an individual where there is a foreseeable, real or probable risk of transmission of the disease.

(e) Any physician attending a patient with a contagious disease may inform other physicians involved in the care of the patient and a physician to whom a referral is made of the patient's condition.

(f) No physician, employee of the health department, hospitals, other health care facilities or organizations, funeral homes or any employee thereof shall incur any civil or criminal liability for revealing or failing to reveal confidential information within the approved rules. This subsection is intended to extend immunity from liability to acts which could constitute a breach of physician/patient privilege but for the protections of this subsection.

(g) All persons who receive a notification of the contagious condition of an individual under this section and the rules established hereunder, shall hold such information in the strictest of confidence and privilege and shall take only those actions necessary to protect the health of the infected person or other persons where there is a foreseeable, real or probable risk of transmission of the disease.

(h) Notwithstanding the provisions of this section or any other provisions of law, the State Health Officer or his or her designee shall under the circumstances set forth below disclose such information as is necessary to establish the following: That an individual is seropositive for HIV infection, confirmed by appropriate methodology as determined by the Board of Health; that the individual has been notified of the fact of his or her HIV infection; and that the individual has been counseled about appropriate methods to avoid infecting others with the disease. Such information shall be provided only under either of the following circumstances:

(1) In response to a subpoena from a grand jury convened in any judicial circuit in the state, when such a subpoena is accompanied by a letter from the Attorney General or an Alabama District Attorney attesting that the information is necessary to the grand jury proceedings in connection with an individual who has been charged with or who is being investigated for murder, attempted murder, or felony assault as a result of having intentionally or recklessly exposed another to HIV infection where the exposed person is later demonstrated to be HIV infected. Prior to release of such evidence to the grand jury, such evidence shall be reviewed in camera by a court of competent jurisdiction to determine its probative value, and the court shall fashion a protective order to prevent disclosure of the evidence except as shall be necessary for the grand jury proceedings.

(2) In response to a subpoena from the State of Alabama or the defendant in a criminal trial in which the defendant has been indicted by a grand jury for murder, attempted murder, or felony assault as a result of having intentionally or recklessly exposed another to HIV infection where the exposed person is later demonstrated to be HIV infected, and, if subpoenaed by the State of Alabama, such material has previously been presented to the appropriate grand jury for review pursuant to subdivision (1), above. Prior to the introduction of such evidence in a criminal trial, it shall be reviewed by the court in camera to determine its probative value, and the court shall fashion a protective order to prevent disclosure of the evidence except as shall be necessary to prosecute or defend the criminal matter.

(i) Nothing in this section shall be construed to mean a physician, hospital, health department, or health care facility or employee thereof will be under any obligation to test an individual to determine their HIV infection status.

(j) Except as provided in this section, any information

required pursuant to this chapter shall remain confidential.

(k) Any person violating any provision of this section or approved guidelines shall be guilty of a Class "C" misdemeanor.

HUMAN IMMUNODEFICIENCY VIRUS AND AIDS.

22-11A-50. Definitions.

As used in this article, the following words and phrases shall have the following meanings respectively ascribed to them, unless the context clearly indicates otherwise:

- (1) HIV. Human immunodeficiency virus.
- (2) AIDS. Acquired immune deficiency syndrome.
- (3) HIV INFECTION. Infection with human immunodeficiency virus as determined by antibody tests, culture or other means approved by the state board of health.

22-11A-51. Informed consent required for HIV testing.

(a) Before any HIV test is performed, the health care provider or testing facility shall obtain from the person a voluntary informed consent to administer the test.

(b) A general consent form should be signed for medical or surgical treatment which specifies the testing for HIV infection by any antibody tests or other means and may be considered as meeting the standard of informed consent in subsection (a).

22-11A-52. Informed consent implied under certain circumstances.

When a written consent for HIV testing has not been obtained, consent shall be implied when an individual presents himself to a physician for diagnostic treatment or other medical services and the physician shall determine that a test for HIV infection is necessary for any of the following reasons:

- (1) Said individual is, based upon reasonable medical judgment, at high risk for HIV infection;

(2) Said individual's medical care may be modified by the presence or absence of HIV infection;

(3) The HIV status of the said individual shall be necessary in order to protect health care personnel from HIV infection.

22-11A-53. Notification of positive test result; counseling; referral to appropriate health care services; explanation of individual responsibility.

An individual tested shall be notified of a positive test result by the physician ordering the test, his designee, a physician designated by the applicant or by the department of public health. Such notification shall include:

(1) Face-to-face post-test counseling on the meaning of the test results, the possible need for additional testing, and the need to eliminate behavior which may spread the disease to others;

(2) Information as to the availability of appropriate health care services, including mental health care, and appropriate social and support services; and

(3) Explanation of the benefits of locating, testing and counseling any individual to whom the infected individual may have exposed the HIV virus and a full description of the services of public health with respect to locating and counseling all such individuals.

22-11A-54. Confidentiality.

A health care or other testing facility shall maintain confidentiality regarding medical test results with respect to the HIV infection or a specific sickness or medical condition derived from such infection and shall disclose results only to those individuals designated by this article or otherwise as authorized by law.

22-11A-60. Definitions.

As used in this article, the following words shall have the following meanings:

(1) HEALTH CARE FACILITY. A hospital, nursing home, ambulatory surgical center, outpatient surgical facility, ambulance service, rescue squad, paid fire department, volunteer fire department, or any other clinic, office, or facility in which medical, dental, nursing, or podiatric services are offered.

(2) HEALTH CARE WORKER. Physicians, dentists, nurses, respiratory therapists, phlebotomists, surgical technicians, physician assistants, podiatrist, dialysis technicians, emergency medical technicians, paramedics, ambulance drivers, dental hygienists, dental assistants, students in the healing arts, or any other individual who provides or assists in the provision of medical, dental, or nursing services.

(3) HEPATITIS B VIRUS (HBV) INFECTION. The presence of the HBV as determined by the presence of hepatitis B(e) antigen for six months or longer or by other means as determined by the State Board of Health.

(4) HUMAN IMMUNODEFICIENCY VIRUS (HIV) INFECTION. The presence of antibodies to Human Immunodeficiency Virus as determined by enzyme immunoassay and Western Blot or the presence of the HIV infection as determined by viral culture, or by other means as determined by the State Board of Health.

(5) INFECTED HEALTH CARE WORKER. A health care worker infected with HIV or HBV as defined herein.

(6) (a) INVASIVE PROCEDURES. Those medical or surgical procedures characterized by the digital palpation of a needle tip in a body cavity or by the simultaneous presence of the health care worker's fingers and a needle or other sharp instrument or object in a poorly visualized or highly confined anatomic site.

(b) Invasive dental procedures shall include those that provide the opportunity for an intraoral percutaneous injury to the dental health care worker and could result in the blood of the health care worker coming in contact with the blood or mucous membrane of the patient as adopted by the Board of Dental Examiners in rules developed pursuant to Section 22-11A-70.

(c) These procedures shall not include physical examinations; blood pressure checks; eye examinations; phlebotomy; administering intramuscular, intradermal, or subcutaneous injections; needle biopsies; needle aspirations; lumbar

punctures; angiographic procedures; vaginal, oral, or rectal exams; endoscopic or bronchoscopic procedures; or placing and maintaining peripheral and central intravascular lines, nasogastric tubes, endotracheal tubes, rectal tubes, and urinary catheters.

22-11A-61. Reporting of infected worker to State Health Officer.

(a) Any health care worker infected with HIV or HBV who performs an invasive procedure shall notify the State Health Officer, or his or her designee, of the infection in a time and manner prescribed by the State Board of Health.

(b) Any physician providing care to an infected health care worker shall notify the State Health Officer, or his or her designee, about the presence of the infection in the health care worker in a time and manner prescribed by the State Board of Health.

22-11A-62. Performing invasive procedures.

No health care worker having knowledge that he or she is infected with either HIV or HBV shall perform or assist in the performance of an invasive procedure unless and until he or she has notified the State Health Officer, as provided in Section 22-1 1A-61, and agrees to cooperate with any investigation authorized in Section 22-7A-4 and any necessary practice modifications.

22-11A-63. Investigation by State Health Officer.

(a) Upon notification of the existence of an infected health care worker, the State Health Officer shall undertake an investigation of the practice of the health care worker. In the investigation, the State Health Officer shall seek advice of individuals and organizations deemed necessary. The investigation shall determine if the infected health care worker performs invasive procedures. If the health care worker is determined not to perform invasive procedures, no review panel shall be established, no restrictions shall be placed on his or her practice, and all information obtained in the investigation shall be confidential as provided for in Section 22-11A-69. If the infected health care worker is determined to perform invasive

procedures, the State Health Officer shall cause an expert review panel to be formed. To the extent possible, the review shall be conducted so that the identity of the health care worker shall not be disclosed to the expert review panel. However, disclosure of the health care worker's identity shall be made when any member of the review panel shall deem it necessary to make a recommendation to the State Health Officer or by the attendance of the infected health care worker at the expert review panel.

(b) The expert review panel may include the physician of the infected health care worker, and shall include the following:

(1) A health care worker with expertise in procedures performed by the infected health care worker chosen by the licensing board of the health care worker, if licensed.

(2) A physician appointed by the State Health Officer with expertise in infectious diseases other than one providing care to the infected health care worker.

(3) A public health physician appointed by the State Health Officer.

(4) Two representatives of the licensing board of the infected health care worker, if licensed, and if the health care worker's practice is institutionally based, a representative of the affected institution appointed by the institution.

(5) Other individuals determined necessary by the State Health Officer.

(c) The expert review panel formed pursuant to this section shall review the overall practice and procedures performed by the infected health care worker and shall consider:

(1) The procedures performed by the infected health care worker.

(2) The adherence to universal precautions by the infected health care worker.

(3) The past history of the health care worker of occupational injury while performing the invasive procedures.

(4) Any prior evidence of the health care worker related to patient transmission of HIV or HBV.

(5) The presence of conditions such as dermatitis, dementia, neuropathy, or other conditions that may increase the risk of transmission.

(6) Current Centers for Disease Control and Prevention guidelines on the management of infected health care workers.

(d) The performance of invasive procedures alone shall not present sufficient cause to limit the practice of the infected health care worker. The health care worker is entitled to be present at meetings of the expert review panel and to present any information pertinent to the panel deliberations. All meetings of the expert review panel shall be held in executive session and shall not be open to the public.

(e) The expert review panel shall recommend to the State Health Officer limitations, if any, on the practice of the infected health care worker that are reasonable and necessary to protect the patients of the health care worker and the public. The expert review panel shall also provide recommendations to the State Health Officer about the need to notify patients who previously may have had an invasive procedure performed by an infected health care worker. The State Health Officer shall accept the recommendations of the expert review panel and issue a final order based on the recommendations.

(f) The State Health Officer shall provide a written final order to the infected health care worker specifying those restrictions, limitations, conditions, or prohibitions with which the infected health care worker shall comply in order to continue to engage in medical, dental, podiatric, or nursing practice, or to continue to be employed at a health care facility. If restrictions or conditions limit the practice of the health care worker, the administrator of the institution in which the health care worker practices, the employer of the infected health care worker, and the appropriate licensing board of the infected health care worker shall be provided a copy of the final order of the State Health Officer. For health care workers no longer performing invasive procedures, the final order shall include those notifications as may have been deemed necessary in Section 22-11A-69.

(g) The final order of the State Health Officer may be appealed to the State Committee of Public Health by delivery of written notice of appeal to the State Health Officer not more than 30 days after the date of the State Health Officer's final order. The appeal may be heard by the State Committee of Public Health in its entirety or may be assigned to an administrative law judge or hearing officer for trial and recommended decision. All hearings, administrative proceedings, and deliberations of the committee in connection with the appeal shall be held in executive session and shall not be open to the public. The

committee shall accept, modify, or reject the final order of the State Health Officer.

22-11A-64. Appeal process.

(a) Any health care worker who has appealed the State Health Officer's final order to the State Committee of Public Health and who is aggrieved by the outcome may appeal that decision by filing a notice of appeal in the circuit court of his or her county of residence or in the Circuit Court of Montgomery County within 30 days of the issuance of the final decision of the State Committee of Public Health.

(b) The health care worker may be represented by counsel or may participate in proceedings in the court on his or her own behalf. If the health care worker elects to represent himself or herself, the pleadings, documents, and evidence filed with the court shall be liberally construed to do substantial justice. The court shall provide assistance to the health care worker in preparing and filing the notice of appeal and shall take those steps that are necessary to keep the health care worker's identity confidential. The assistance may be provided by court personnel.

(c) The court shall consider an application for stay of the final decision of the State Committee of Public Health under the same standard applicable to an application for preliminary injunction. In no event shall a stay be granted on the ex parte application of an appealing health care worker, unless notice and opportunity to be heard are waived by the State Committee of Public Health. Stays erroneously granted on ex parte application shall be void. No bond or security shall be required in the event a stay is granted.

(d) The appeal shall be conducted by the court without a jury and shall be confined only to the administrative record and the following:

(1) Evidence which either party can demonstrate was erroneously denied entry into the record.

(2) Evidence which was not available to be offered into the record because it had not been discovered by the time of the administrative proceedings and could not have been discovered through reasonable diligence.

(3) Evidence not offered in the administrative proceedings

because of excusable neglect or previous unavailability.

(4) Evidence excluded or not offered during the administrative proceedings because of fraud or misconduct in the proceedings not caused by the party seeking introduction of the evidence.

(e) The court may exclude from its record any evidence erroneously entered into the administrative record. Hearsay evidence rules may be disregarded in the discretion of the trial court when the interests of justice require.

(f) The final decision of the State Committee of Public Health shall be taken as prima facie just and reasonable and the court shall not substitute its judgment for that of the committee as to the weight of the evidence on questions of fact. The court may affirm the decision of the committee or remand the case for taking additional testimony or evidence or for further proceedings. The court may reverse or modify the decision or grant other appropriate relief from the final order, equitable or legal, including declaratory relief, if the court finds that any of the following substantial rights of the appealing health care worker have been prejudiced because the final decision:

(1) Violates constitutional or statutory provisions.

(2) Exceeds the authority granted by this article.

(3) Violates a pertinent rule adopted pursuant to this article.

(4) Was made upon unlawful procedure.

(5) Is affected by other error of law.

(6) Is clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record.

(7) Is arbitrary or capricious or characterized by an abuse of discretion or a clearly unwarranted exercise of discretion.

(g) Unless the court affirms the final decision of the State Committee of Public Health, the court shall set forth in a written document, which shall become a part of the record, the reasons for its decision. The proceedings shall be recorded, and if there is an appeal, a transcript shall be prepared immediately.

(h) A confidential and anonymous appeal shall be available to either party aggrieved by the decision of the circuit court.

(i) All proceedings under this section shall be confidential and anonymous. In all pleadings or court documents, the infected health care worker shall be identified only by initials or a pseudonym. The Alabama Supreme Court shall issue any additional rules it deems necessary to assure that appeals under this section are handled in a confidential and anonymous manner.

(j) Notwithstanding any language to the contrary in the Alabama Administrative Procedure Act, this article shall take precedence and shall govern in the event there is a conflict between the Alabama Administrative Procedure Act and this article. In all other respects, appeals shall be governed by the Alabama Administrative Procedure Act.

22-11A-65. Monitoring of practice of infected health care worker.

The State Health Officer shall cause the infected health care worker's practice to be reviewed at intervals established by the expert review panel but not less than annually. The review shall verify the compliance with any restrictions or conditions on the infected health care worker's practice as established pursuant to subsection (f) of Section 22-11A-63. For infected health care workers for whom no restrictions have previously been necessary, the review shall determine if, based upon factors identified in subsection (c) of Section 22-11A-63, restrictions are necessary. The findings of any review shall be forwarded to the State Health Officer pursuant to Section 22-11A-63 who shall forward evidence of noncompliance with previously established restrictions to the appropriate licensing board or to the employer of the infected health care worker if he or she does not have a professional license. If the review determines that practice restrictions may be necessary for an infected health care worker for whom practice restrictions had not been previously necessary, the State Health Officer shall convene an expert review panel as provided in Section 22-11A-63.

22-11A-66. Violations.

In addition to any other law or regulation, it shall be grounds for the revocation, suspension, or restriction of the professional license of any health care worker who is infected with HIV or HBV if the infected health care worker is found to be practicing in violation of this article.

22-11A-67. Records and information necessary to assist investigation.

(a) Any health care worker found to have HBV or HIV infection and any health care facility at which an infected health care worker is employed or practices shall make available to the State Board of Health, and to the expert review panel, any and all patient medical records and other records requested by those groups, except that records or documents greater than three years old shall not be provided.

(b) The following persons and facilities shall provide to the State Board of Health and the expert review panel all requested documents or records three years old or less:

(1) Any person having knowledge of a health care worker diagnosed as infected with HIV or HBV infection.

(2) The administrator of any health facility having knowledge of a health care worker diagnosed as infected with HIV or HBV infection.

(3) Any person serving as the guardian of or the conservator of any health care worker diagnosed with HIV or HBV infection, or any person who is the administrator or executor of the estate of any health care worker diagnosed with HIV or HBV infection.

(4) Any person serving as the custodian of patient records of any HBV or HIV infected health care worker.

(5) Any facility employing a worker diagnosed with HIV or HBV infection.

(c) The hospital or other individual or organization providing records may collect the usual fee for copies of records or documents.

22-11A-68. Immunity from liability for those involved in investigation.

(a) Members and staff of the State Board of Health, the State Committee of Public Health, the Board of Medical Examiners, the Medical Licensure Commission, the Board of Nursing, the Board of Dental Examiners, the Board of Podiatry, hospitals, and other health care facilities acting under this article, any expert

review panels, consultants to any expert review panel, and agents and employees of the Alabama Department of Public Health shall not be subject to civil or criminal liability for actions taken or actions not taken in the line and scope of official duties during their investigations, hearings, rulings, and decisions.

(b) All information collected during the investigation of an infected health care worker is privileged and shall be released in one of the following ways only:

(1) To professional licensing boards, employers, and patients in a manner provided elsewhere in this article, and to employees, agents, and consultants of the Department of Public Health, provided that any release of information under this subsection shall conform to rules adopted by the Board of Health and shall be restricted to individuals with a legitimate need to know the information.

(2) Upon the lawful order of a court of competent jurisdiction. The information shall be released only upon a finding by the court that the interest of the party applying for the information outweighs the privacy interest of any individuals identified, and the public interest and the interest of the Board of Health in safeguarding the confidentiality of the information. No order shall be issued without notice and an opportunity to be heard by the Board of Health. Upon application by the Board of Health, the court shall also afford an opportunity to be heard by any individual identified in the information, who may be represented by counsel anonymously. Any order issued ex parte or without an opportunity for a hearing as provided in this subsection shall be void unless the hearing is waived by the affected parties. The court may examine the information in camera before deciding upon the terms of its release. Any order releasing the information shall include any terms the court finds are necessary to protect the legitimate privacy interests of identified persons and shall include an additional protective order specifying the individuals to whom the information may be released and enjoining the individuals from releasing it to any other persons. An individual violating the court order may be punished for civil and criminal contempt.

(c) Any individual releasing information in violation of subsection (b) of this section shall not be exempt from liability for the release of the information. Any person providing information to the Department of Public Health in connection with an investigation conducted hereunder shall not be subject to liability for providing records or other information which the individual knows or reasonably believes to be truthful.

22-11A-69. Confidentiality standards; uses of information gained during investigation.

(a) The records, proceedings, deliberations, and documents related to the investigation and review of any infected health care worker are confidential and shall be used by committees, licensing boards of licensed health care workers, panels, and individuals only in the exercise of their official duties and shall not be public records nor be admissible in court for any purpose nor subject to discovery in any civil action except appeals governed by Sections 22-11A-64 and 22-11A-65 and appeals from adverse professional license determinations made pursuant to Sections 22-11A-66 and 22-11A-72(a). Information gained during the investigation of an infected health care worker and the decision about restriction of practice of an infected health care worker shall be made available to the appropriate licensing board and to the employer of an infected health care worker and may be used by the licensing board in any subsequent administrative hearing or procedure.

(b) However, nothing in this article shall preclude the notification of patients who have had an invasive procedure performed by an infected health care worker when deemed necessary by the State Health Officer to protect the patients of the health care worker.

(c) Any person violating the confidentiality provisions of this section shall, upon conviction, be guilty of a misdemeanor punishable by a fine of not less than \$50 nor more than \$500.

(d) Under no circumstances shall disclosure of the identity of the infected health care worker to members of the expert review panel pursuant to Section 22-11A-63 constitute a violation of the confidentiality provisions of this section.

22-11A-70. Promulgation of rules for administration.

(a) The State Board of Health may adopt rules necessary for the administration of this article. The State Board of Health, the Board of Medical Examiners, the Medical Licensure Commission, the Board of Dental Examiners, the Board of Nursing, and the Board of Podiatry may each adopt rules governing professional licensure determinations made under the provisions of this article.

(b) The State Board of Health may institute a civil action in any circuit court in the state to seek an extraordinary writ compelling compliance with this article or any rule or order promulgated or issued pursuant to this article. Those civil actions shall have preferred or expedited scheduling and hearing by the circuit courts.

22-11A-71. Entitlement to costs.

Individuals serving on review panels, or otherwise providing consultation or assistance to the State Health Officer in the enforcement of this article shall be entitled to mileage and per diem as provided by law.

22-11A-72. Penalties.

(a) It shall be grounds for revocation, suspension, or restriction of the professional license of any licensed infected health care worker who shall be found to perform invasive procedures and shall have failed to notify the State Health Officer as provided in Section 22-11A-61.

(b) Any physician providing care to an individual known to the physician to be an infected health care worker who fails to report the infected health care worker to the State Health Officer as provided in Section 22-11A-61 shall be guilty of a Class C misdemeanor and, upon conviction, shall be punished as provided by law.

(c) Any individual who deliberately fails to provide records under his or her control or who falsifies those records shall be guilty of a Class C misdemeanor and, upon conviction, shall be punished as provided by law.

22-11A-73. Reporting requirements; knowledge of infection through application.

Nothing in this article is intended to impose any reporting requirements on life, health, or disability income insurers who learn that an applicant or insured is infected with HIV or HBV solely through the application, underwriting, or claims processes, which insurer may have no means of knowing or

verifying that a particular applicant or insured is a health care worker within the meaning of this article.