

/\* The text of Louisiana Law follows. \*/

#### 43.5. Intentional exposure of AIDS virus

A. No person shall intentionally expose another to any acquired immunity deficiency syndrome (AIDS) virus through sexual contact without the knowing and lawful consent of the victim.

B. Whoever commits the crime of intentional exposure of AIDS virus shall be fined not more than five thousand dollars, imprisoned with or without hard labor for not more than ten years, or both.

/\* The full text of Louisiana Revised Statutes, Criminal Law, 14:82 follows.

### 2. OFFENSES CONCERNING PROSTITUTION

#### 82. Prostitution; definition; penalties; enhancement

A. Prostitution is:

(1) The practice by a person of indiscriminate sexual intercourse with others for compensation.

(2) The solicitation by one person of another with the intent to engage in indiscriminate sexual intercourse with the latter for compensation.

B. (1) Whoever commits the crime of prostitution shall be fined not more than five hundred dollars or be imprisoned for not more than six months, or both.

(2) On a second conviction, the offender shall be fined not less than two hundred fifty dollars nor more than two thousand dollars or be imprisoned, with or without hard labor for not more than two years, or both.

(3) On a third and subsequent conviction the offender shall be imprisoned, with or without hard labor, for not less than two nor more than four years and shall be fined not less than five hundred dollars nor more than four thousand dollars.

C. Any offense under this Section committed more than five years prior to the commission of the offense with which the defendant is charged shall not be considered in the assessment of penalties under this Section.

D. If the offense occurred as a result of a solicitation by the offender while the offender was located on a public road or highway, or the sidewalk, walkway, or public servitude thereof, the court shall sentence the offender to imprisonment for a minimum of ninety days which, except as provided in this Subsection, shall not be suspended. The court may suspend imposition of forty-five days of the ninety day imprisonment and place the offender upon supervised probation if the offender agrees, as a condition of probation, to perform two hundred forty hours of community service work collecting or picking up litter and trash on the public roads, streets, and highways, under

conditions specified by the court.

E. All persons who are convicted of the offense of prostitution shall be referred to the parish health unit for counseling concerning Acquired Immune Deficiency Syndrome. The counseling shall be provided by existing staff of the parish health unit whose duties include such counseling.

/\* The full text of Louisiana Revised Statutes, Criminal Law, Section 15:535 follows \*/

CHAPTER 3-A. SEXUAL OFFENDER LAW

Section

535. Blood and saliva testing; AIDS and sexually transmitted diseases.

536. Definitions.

537 to 564. Reserved

535. Blood and saliva testing; AIDS and sexually transmitted diseases

A. When a sexual offender is convicted, the court shall order and direct the offender to submit to a blood and saliva test, to be made by qualified physicians or other qualified persons, under such restrictions and direction as the court deems proper.

B. The test must include chemical testing of his blood to determine its genetic markers and of his saliva to determine its secretor status. The court shall order that the results of the test be submitted to the Louisiana Bureau of Criminal Identification and Information.

C. The court shall also order the person convicted of a sexual offense as defined in R.S. 14:42 through 43.4 to submit to a test designed to determine whether the person is infected with a sexually transmitted disease, or is infected with acquired immune deficiency syndrome (AIDS), the human immuno deficiency virus (HIV), HIV-1 antibodies, or any other probable causative agent of AIDS. The procedure or test shall be performed by a qualified physician or other qualified person who shall report any positive result to the Department of Public Safety and Corrections, make the notification of the test results to the victim of the alleged offense and notify the victim or the parent or guardian of the victim of the offense, regardless of the results.

Section 536. Definitions

For purposes of this Chapter, "sexual offender" means a person who has violated any provision of Subpart C of Part II, Subpart B of Part IV, or Subpart A(1) or A(4) of Part V, of Chapter 1 of Title 14 of the Louisiana Revised Statutes of 1950.

22:228.1 Cancellation prohibited after claim for terminal, incapacitating, or debilitating condition

A. No group, family group, or blanket health insurer shall unilaterally cancel a policy after the insurer has received any covered claim or notice of any covered claim for a terminal, incapacitating, or debilitating condition. The insurer may cancel the policy, as otherwise provided by law, after the claimant's terminal, incapacitating, or debilitating condition has concluded and no further claims for that condition are expected, provided there has been no other covered claim, or notice of claim, made by any member of the group for a terminal, incapacitating, or debilitating condition.

B. In this Section "terminal, incapacitating, or debilitating condition" means any aggressive malignancy, chronic end stage cardiovascular or cerebral vascular disease, diabetes and its long-term associated complications, pregnancy, acquired immunodeficiency syndrome (AIDS), human immunodeficiency virus (HIV), or any other disease, illness, or condition which a physician diagnoses as terminal, or any mental or physical handicap which renders a person incapable of self-employment, provided that the handicapped person is chiefly dependent upon the policyholder, employee, or member for support and maintenance.

C. This Section shall not be construed to prohibit the insurer from increasing the rate for the group, as provided in R.S. 22:228.1 through 228.5.

#### PART VIII. HEALTH CARE PROVIDER- HEPATITIS OR HIV CARRIERS

##### 1746. Definitions

For purposes of this Part, the following terms shall have the following meanings:

(1) "Health care provider" means a person licensed by this state to provide health care or professional services as a physician, dentist, registered or licensed practical nurse, certified registered nurse, anesthetist, nurse midwife, chiropractor, or podiatrist.

(2) "Board" means the Louisiana State Board of Dentistry, Louisiana State Board of Nursing, Louisiana State Board of Practical Nurse Examiners, Louisiana Board of Chiropractic Examiners, or the Louisiana Board of Medical Examiners.

##### 1747. Hepatitis B or human immunodeficiency carriers; practice requirements; report procedures; exemptions

A. Each board licensing health care providers shall establish by rule practice requirements based on applicable guidelines from the Federal Centers for Disease Control which will protect the public from the transmission of the hepatitis B virus or human

immunodeficiency virus in the practice of a profession regulated by the appropriate board.

B. The boards shall by rule, based on applicable guidelines from the Federal Centers for Disease Control, establish requirements and procedures for a licensee and a licensure applicant to report his status as a carrier of the hepatitis B virus or human immunodeficiency virus to the board and shall enforce such requirements and procedures.

C. Each report of hepatitis B virus carrier status or human immunodeficiency virus carrier status filed by a licensee or licensure applicant in compliance with this Section and each record maintained and meeting held by the boards in the course of monitoring a licensee for compliance with the practice requirement established by Subsection A are confidential and exempt from the public records by R.S. 44:4(7), (9), and (11), except for the purpose of the investigation or prosecution of alleged violations of this Part by the boards.

/\* Louisiana Revised Statutes, Section 40:1062.1 follows. \*/  
1062.1. Testing of donors of semen specimens; use of specimens; penalties

A. No public or private health facility, agency, or physician which provides human artificial insemination services on an anonymous basis shall use fresh semen specimens. The provisions of this Section shall not be construed or interpreted in any way to prohibit the use of a wife's spouse's semen for artificial insemination purposes.

B. A health facility, agency, or physician which provides human artificial insemination services on an anonymous basis using frozen semen shall test each semen donor for the presence in the donor of HIV-1 antibodies, which have been associated with acquired immune deficiency syndrome (AIDS). The donated semen shall be stored and quarantined until the HIV-1 antibodies test and a second test six months from the date of donation are completed. A regular donor may be tested for the presence of HIV-1 antibodies on a regular basis, but shall be tested at least once every six months. A health facility, agency, or physician shall not accept or use for artificial insemination purposes:

(1) Any semen specimen, except that of a wife's spouse, from a donor who has not been subjected to an initial HIV-1 antibodies test which produced a negative result and subjected to a second test six months later which produced a negative result; or  
(2) Any semen specimen from a donor whose first or subsequent HIV-1 antibodies test result is positive, unless a corroborative HIV-1 test provides evidence that the positive HIV-1 test result was a false positive reaction.

C. The results of the tests performed pursuant to this Section

shall be released only to the subject of the test; the subject's treating physician; or the office of public health of the Department of Health and Hospitals for the limited purpose of statistical summary and analysis.

D. The Department of Health and Hospitals shall promulgate rules to implement the provisions of this Section.

E. A health facility, agency, or physician which violates any of the provisions of this Section shall be fined not more than two thousand dollars, and shall be liable for damages in a civil action.

1063. Examination of persons suspected of being infected  
The Department of Health and Human Resources, hereinafter referred to as the "department," through an authorized medical representative appointed for that purpose, may give a physical examination to any person suspected of being infected with a venereal disease. The examination shall be given under conditions thought reasonable by the department. No person shall fail or refuse to submit to this examination.

1064. Isolation, quarantine, or internment of persons affected  
Any person affected with a venereal disease is subject to isolation, quarantine, or internment, on the order of the department, and shall submit to any treatment for such a time and under such restrictions as seems reasonable and proper to the department.

1065. Report of cases

A. Every licensed physician in this state and every superintendent or manager of a hospital or dispensary in this state shall report to the department every case of venereal disease which he attends or examines or for which he prescribes or gives treatment. This report shall be made within twenty-four hours after the case is first diagnosed as a venereal disease and shall be made on, or in substantial conformity with, a blank provided for that purpose by the office. The report shall not contain the name or address of the person suffering from the venereal disease but shall state the age, sex, color, marital conditions, and occupation of the person so affected, the degree of infectiousness, and a number or letter by means of which the reporting physician may readily identify the person.

B. If the person affected with the venereal disease fails or refuses, for a period of ten days or more after the diagnosis as a venereal disease, to submit to proper treatment or if he exposes any other person to infection with the venereal disease, the attending physician shall make a supplementary report to the

department giving his name and address.

1097. Donation of blood

Notwithstanding any other provision of the laws of the state of Louisiana, a minor who has reached the age of seventeen years may give consent to the donation of his or her blood and to the penetration of tissue necessary to accomplish such donation, but such minor shall not be compensated therefor. Such consent shall not be subject to deferments because of minority, and the consent of the parents or guardian of such a minor shall not be required in order to authorize such donation and penetration of tissue.

1099. Infectious diseases; notification

A. (1) If, while treating or transporting an ill or injured patient to a hospital, an emergency medical technician, paramedic, firefighter, or other person who is employed by or voluntarily working with a firm, agency, or organization which provides emergency treatment or transportation comes into direct contact with a patient who is subsequently diagnosed as having untreated pulmonary tuberculosis or acute meningococcal meningitis, or comes in contact with the blood or body fluid of a person who is subsequently diagnosed as having acute hepatitis virus B infection, or is a chronic hepatitis B carrier, or is infected with human immunodeficiency virus, the hospital receiving the patient shall notify the appropriate firm, agency, or organization which shall notify its emergency medical technician, paramedic, firefighter, emergency medical transportation service employer, or other person treating or transporting the patient of the individual's exposure to the infectious disease within forty-eight hours of confirmation of the patient's diagnosis and shall advise same of the appropriate treatment, if any. Notification shall be made in a manner that protects the confidentiality of the patient and the emergency medical technician, paramedic, or other person treating or transporting the patient.

(2) Prior to October 30, 1988, the Department of Health and Hospitals shall, in accordance with the Administrative Procedure Act, promulgate rules and regulations for the notification procedures required under the provisions of this Subsection.

B. (1) Whenever a patient is admitted to a hospital or nursing home by a physician, and that physician has actual knowledge that the patient is infected with one or more of the conditions described in Subsection A hereof, and is aware of the transfer, the physician shall notify the hospital or nursing home of the patient's condition.

(2) Whenever a patient is transferred from a nursing home to a hospital, or from a hospital to a nursing home, and the

transferor's records reflect that patient is infected with one or more of the conditions described in Subsection A hereof, the transferor shall notify the transferee of the patient's condition.

(3) Whenever a patient is admitted to or treated at a hospital or nursing home and the hospital or nursing home has actual knowledge that the patient is infected with one or more of the conditions described in Subsection A hereof, the hospital or nursing home shall notify all health care providers involved in the treatment of that patient of the patient's condition.

C. For purposes of this Subpart, "hospital" means any institution, place, building, or agency, public or private, whether operated for profit or not, devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment, or care of persons admitted for overnight stay or longer who are suffering from illness, injury, infirmity, deformity, or other physical conditions for which obstetrical, medical, or surgical services would be available and appropriate. The term "hospital" specifically includes any emergency room or outpatient clinic operated in connection with a hospital as herein defined, whether or not the patient is admitted for overnight stay.

#### 1099.1. Mandatory identification of infected corpses

A. Each hospital, nursing home, and coroner which requests a funeral director or embalmer to transport a corpse shall notify any such funeral director, embalmer, or a representative thereof whenever there is actual knowledge that the corpse is infected with a contagious disease. The hospital, nursing home, or coroner shall inform the funeral director, embalmer, or representative thereof that the corpse is infected with a contagious disease during the initial telephone communication requesting that the corpse be transported. Further notification shall include a clearly visible, external tag that is readily discernible from other identification markers and a written statement that clearly indicates the name of the contagious disease or causative agent infecting or infesting said corpse. Such notification shall be made in a manner that protects the confidentiality of the deceased and the funeral director or embalmer handling the corpse.

B. The Department of Health and Hospitals through the office of public health shall promulgate rules and regulations to provide for the disposition by hospitals, nursing homes, coroners, and other medical personnel of corpses infected with known contagious diseases and to implement the provisions of this Section. Such regulations shall include, at a minimum, a requirement that each hospital, nursing home, and coroner's office establish staff

procedures for implementing this law.

C. Whoever violates the provisions of this Section shall be fined not more than five thousand dollars. Violation of the provisions of this Section shall constitute grounds for suspension or revocation of the professional license or certificate of the violator or for other disciplinary action by the respective professional regulatory board.

#### ACQUIRED IMMUNE DEFICIENCY SYNDROME

Part 35

#### PART XXXV. ACQUIRED IMMUNE DEFICIENCY SYNDROME

Part XXXIV of Chapter 5, added by Acts 1982; No. 234, Section 1, containing R.S. 40:1299.131 to 40:1299.137; was redesignated as Part XXXV of Chapter 5, containing R..S. 40:1299.141 to 40:1299.147; pursuant to the statutory revision authority of the Louisiana State Law Institute.

1299.141. Definitions

As used in this Part:

(1) "AIDS test" means a laboratory test approved by the Department of Health and Human Resources to detect antibodies to the probable causative agent for the disease acquired immune deficiency syndrome.

(2) "Autologous donations" means the donation or collection of blood, blood products, or tissue from a patient strictly intended for that patient's own future use.

(3) "Health care provider" means a person, partnership, corporation, facility, or institution licensed by the state or federal government to provide health care or professional services as a physician, osteopath, hospital, blood bank or tissue bank and/or an officer, employee, or agent thereof acting in the course and scope of his employment.

(4) "Patient" means a natural person who receives health care from a health care provider.

(5) A "positive reaction" means a positive AIDS test with a positive confirmatory test, including, but not limited to the western blot.

1299.142. Blood and tissue storage facilities; test for AIDS

A. A blood bank, tissue bank, or other blood or tissue storage facility shall

perform an AIDS test on the blood or tissue of all donors or cause such test to be performed. A blood or tissue storage facility shall not accept a blood or tissue donation from a donor whose AIDS test results in a positive reaction unless:

(1) The secondary, corroborative AIDS test provides evidence that the first AIDS test was a false positive reaction.



(2) The blood, tissue, or a product of the blood of the donor will only be used for research purposes.

B. The results of the tests performed pursuant to this Section shall be released only to:

- (1) The subject of the test;
- (2) The subject's or patient's treating physician;
- (3) A health care provider who procures, processes, distributes, or uses an anatomical gift for the sole purpose of ascertaining the medical acceptability of the anatomical gift;
- (4) The coroner, funeral director, or other person who examines or prepares the body of a decedent for burial or other disposition; or
- (5) The office of preventive and public health services of the Department of Health and Human Resources for the limited purpose of statistical summary and analysis.

1299.143. Administration of blood, tissue, fluids to patient  
No physician, osteopath, hospital, blood bank, or tissue bank, or such health care provider's officers, employees, or agents authorized by law to administer blood, tissue, or fluids shall administer to a patient blood, blood products, body tissue, or body fluids donated by another individual unless:

- (1) The donated blood, blood products, body tissue, or body fluids have been subjected to an AIDS test; and
- (2) The AIDS test performed produced a negative result.

1299.144. Emergencies

The provisions of this Part shall not be applicable in emergency situations, which are hereby defined to include but not be limited to those situations in which a patient is in imminent danger of death or great bodily harm and blood or tissue screened pursuant to this Part is not available.

1299.145. Penalty

Whoever violates the provisions of this Part shall be fined not more than two thousand dollars.

1299.146. Rules and regulations

The secretary of the Department of Health and Human Resources shall promulgate rules and regulations necessary to carry out the provisions of this Part in accordance with the Administrative Procedure Act.

1299.147. Autologous donations

The provisions of this Part shall not be construed or interpreted to prohibit or exclude autologous donations or preparation, handling and storage of autologous donations of blood, blood

products, body tissue, or body fluids for the intended purpose of transfusions or reimplantation into the original donor.

#### PART XLI. CONFIDENTIALITY OF HIV TEST RESULTS

1300.11. Purpose; intent; insurance and R-S. 40:1299.40(D) not affected

The legislature recognizes that confidentiality protection for information related to human immunodeficiency virus (HIV) infection and acquired immunodeficiency syndrome (AIDS) is an essential public health measure. In order to retain the full trust and confidence of persons at risk, the state has an interest both in assuring that HIV test results are not improperly disclosed and in having clear and certain rules for the disclosure of such information. By providing additional protection for the confidentiality of HIV test results, the legislature intends to encourage the expansion of voluntary confidential testing for HIV so that individuals may come forward, learn their health status, make decisions regarding the appropriate treatment, and change behaviors that put them and others at risk of infection. The legislature also recognizes that confidentiality protections can limit the risk of discrimination and the harm to an individual's interest in privacy that unauthorized disclosure of HIV test results can cause. It is not the intent of the legislature to create any new right, right of action, or cause of action or eliminate any right, right of action, or cause of action existing under current law. It is further not the intent of the legislature that this Chapter repeal, amend, or in any way affect the provisions of R.S. 40:1299.40(D) relative to the ability of a physician or employee of a hospital who may become infected with the human immunodeficiency virus to test the blood of a patient without the patient's consent. It is the intent of the legislature that in the case of a person applying for or already insured under an insurance policy, who will be or has been the subject of a test to determine infection for human immunodeficiency virus (HIV), all facets of insurers' practices in connection with HIV related testing and HIV test results and all facets of other entities' and individuals' interactions with insurers relating to HIV related testing or HIV test results shall be governed exclusively by Title 22 of the Revised Statutes of 1950 and any regulations promulgated pursuant thereto by the commissioner of the Department of Insurance who shall have the authority to promulgate such regulations.

1300.12. Definitions

A. "HIV-related test" is a test which is performed solely for the purpose of identifying the presence of antibodies or antigens

indicative of infection with Human Immunodeficiency Virus (HIV).

B. "HIV test result" is the original document, or copy thereof, transmitted to the medical record from the laboratory or other testing site the result of an HIV-related test. The term shall not include any other note, notation, diagnosis, report, or other writing or document.

C. "Contact" is a sex-sharing or needle-sharing partner, a person who has had contact with blood or body fluids to which universal precautions apply through percutaneous inoculation or contact with an open wound, non-intact skin, or mucous membrane, or a person who has otherwise been exposed to an HIV infected person in such a way that infection may have occurred as defined by the Department of Health and Hospitals regulations based upon Center for Disease Control guidelines.

#### 1300.13. HIV-related testing; consent; exceptions

A. Except as provided, specifically authorized, or required by a state or federal law, no person shall order the performance of an HIV-related test in a hospital without first receiving the written informed consent or otherwise without first receiving the written informed consent or verbal informed consent contemporaneously documented in writing in the medical record, of the subject of the test if the individual has capacity to consent or, when the subject lacks capacity to consent, that of a designated person pursuant to law to consent to health care for such individual.

B. The written informed consent to an HIV-related test shall consist of a statement signed by the subject of the test who has capacity to consent or, when the subject lacks capacity to consent, by a person authorized by law to consent to health care for the subject. The Department of Health and Hospitals shall promulgate rules and regulations and develop consent forms and informational materials in accordance with the Administrative Procedure Act, which shall establish minimal requirements for compliance with the provisions of this Part relative to written informed consents. Adherence to these rules, regulations, and forms shall constitute a legal presumption that consent for testing was validly obtained.

C. Verbal informed consent shall be immediately and contemporaneously documented in writing in the medical record of the person being tested. The Department of Health and Hospitals shall promulgate rules and regulations in accordance with the Administrative Procedure Act' which shall establish minimal requirements for compliance with the provisions of this Part relative to verbal informed consent. Written documentation of verbal informed consent shall not constitute a presumption, legal or otherwise, that consent for testing was validly obtained.

D. Prior to the execution of an informed consent, the person requesting the performance of an HIV-related test shall provide to the subject of an HIV related test or, if the subject lacks Capacity to consent, to a person authorized by law to consent to health care for the subject, an oral, videotaped, or written explanation of the nature of AIDS and HIV-related illness, as well as oral, videotaped, or written information about behavior known to pose risks for transmission and contraction of HIV infection.

E. A patient requesting the performance of an HIV-related test shall be provided an opportunity to remain anonymous by the use of a coded system with no correlation or identification of the individual's identity to the specific test request or results. A health care provider that is not able to provide HIV related tests on an anonymous basis shall refer, at no extra charge to the individual seeking anonymity, such individual to a test site that does provide anonymous testing. The provisions of this Subsection shall not apply to inpatients in hospitals.

F. The provisions of Subsections A through IS shall not apply to the performance of an HIV-related test:

(1) By a health care provider or health facility in relation to the procuring, processing, distributing, or use of a human body or a human part, including organs, tissues, eyes, bones, arteries, blood, semen, or other body fluids, for use in medical research or therapy, or for transplantation to individuals, as provided in R.S. 40:1299.142.

(2) For purposes of accredited scientific or medical research. Any testing must be performed in such a manner, however, so that the identity of the test subject remains anonymous and may not be retrieved by any researcher unless specifically authorized.

(3) On a deceased person, when the HIV-related test is conducted, to determine the cause of death or for epidemiological purposes.

(4) When, in the medical opinion of the physician requesting the HIV related test, the request for informed consent to perform such test would be medically contraindicated.

(5) On any child taken into custody by the Department of Social Services, where department officials have cause to believe that the child has been infected with HIV.

(6) On any child when the child's attending physician reasonably believes such test to be necessary in order to properly diagnose or treat the child's medical condition and documents such reason in the child's medical record.

(7) On any person who has been arrested, indicted, or convicted for the crimes of aggravated rape, forcible rape, simple rape, or incest when required by a court to undergo an HIV-related test.

1300.14. Confidentiality of llw test result; disclosure

A. Except as otherwise provided by law, no person who obtains, retains, or becomes the recipient of confidential HIV test results in the course of providing any health or social service or pursuant to a release of confidential HIV test results may disclose such information pursuant to a written authorization to release medical information when such authorization contains a refusal to release HIV test results.

B. Notwithstanding the provisions of Subsection A, HIV test results may be released to the following:

(1) Any person to whom disclosure of medical information is authorized by law without the consent of the patient.

(2) Any agent or employee of a health facility or health care provider if:

(a) The agent or employee is permitted access to medical records.

(b) The health facility or health care provider is authorized to obtain the HIV test results.

(c) The agent or employee provides health care to the patient or maintains or processes medical records for billing or reimbursement purposes.

(3) A health care provider or health facility, when knowledge of the HIV test results is necessary to provide appropriate care or treatment to the patient and afford the health care provider and the personnel of the health facility an opportunity to protect themselves from transmission of the virus.

(4) A health facility or health care provider, in relation to the procurement, processing, distributing, or use of a human body or a human body part, including organs, tissues, eyes, bones, arteries, blood, semen, or other body fluids, for use in medical education, research, therapy, or transplantation.

(5) Any health facility staff committees or accreditation or oversight review organizations authorized to access medical records, provided that the committee or organization shall only disclose confidential HIV test results:

(a) To the facility or provider of a health or social service.

(b) To a federal, state, or local government agency for the purposes of and subject to the conditions provided in Paragraph (6) of this Subsection.

(c) To carry out the monitoring evaluation, or service for which it was obtained.

(6) A federal, state, parish, or local health officer when the disclosure is mandated by federal or state law.

(7) An agency or individual in connection with the foster care programs of the Department of Social Services or an agency or individual in Connection with the adoption of a child.

(8) Any person to whom disclosure is ordered by a court of

competent jurisdiction.

(9) An employee or agent of the Board of Parole of the Department of Public Safety and Corrections to the extent that the employee or agent is authorized to access records containing HIV test results in order to implement the functions, powers, and duties with respect to the individual patient of the Board of Parole, Department of Public Safety and Corrections.

(10) An employee or agent of the office of probation and parole of the Department of Public Safety and Corrections, division of correction services, to the extent the employee or agent is authorized to access records containing HIV test results in order to carry out the functions, powers, and duties, with respect to patient of the office.

(11) A medical director of a local correctional facility, to the extent the medical director is authorized to access records containing HIV test results in order to carry out the functions, powers, and duties with respect to the patient.

(12) An employee or agent of the Department of Public Safety and Corrections, to the extent the employee or agent is authorized to access records containing HIV test results in order to carry out the Department of Public Safety and Corrections functions, powers, and duties with respect to the patient.

(13) An employee or agent who is authorized by the Department of Social Services, office of rehabilitative services to access records containing HIV test results in order to carry out the Department of Social Services, office of rehabilitative services functions, powers, and duties with respect to the protected patient.

(14) An insurer, insurance administrator, self-insured employer, self-insurance trust, or other person or entity responsible for paying or determining payment for medical services to the extent necessary to secure payment for those services.

C. A state, parish, or local health officer may disclose confidential HIV test results when:

(1) Disclosure is specifically authorized or required by federal or state law.

(2) Disclosure is made pursuant to a release of confidential HIV test results.

(3) Disclosure is requested by a physician pursuant to Subsection E of this Section.

(4) Disclosure is authorized by court order.

D. No person to whom confidential HIV test results have been disclosed pursuant to this Part shall disclose the information to another person except as authorized by this Part, provided, however, that the provisions of this Subsection shall not apply to the individual or to a natural person who is authorized by law to consent to health care for the individual.

E. (1) A physician may disclose confidential HW test results under all of the following conditions:

(a) Disclosure is made to a contact, or to a public health officer for the purpose of making the disclosure to said contact.

(b) The physician reasonably believes disclosure is medically appropriate, and there is a significant risk of infection to the contact.

(c) The physician has counseled the patient regarding the need to notify the contact, and the physician reasonably believes the patient will not inform the contact.

(d) The physician has informed the patient of his or her intent to make such disclosure to a contact and has given the patient the opportunity to express a preference as to whether disclosure should be made by the physician directly or to a public health officer for the purpose of said disclosure. If the patient expresses a preference for disclosure by a public health officer or by the physician the physician shall honor such preference.

(2) When making such disclosures to the contact, the physician or public health officer shall provide or make referrals for the provision of the appropriate medical advice and counseling for coping with the emotional consequences of the knowledge of the information and for alteration of behavior to prevent transmission or contraction of HW infection. The physician or public health officer shall not disclose the identity of the patient or the identity of any other contact. A physician or public health officer making a notification pursuant to this Subsection shall make such disclosure in person, except where circumstances reasonably prevent doing so.

(3) A physician shall have no obligation to identify or locate any contact.

(4) A physician may, upon the consent of a parent or guardian, disclose confidential HIV test results to a state, parish, or local health officer for the purpose of reviewing the medical history of a child to determine the fitness of the child to attend school.

(5) A physician may disclose confidential HIV test results pertaining to a patient to a person authorized by law to consent to health care for the patient when the physician reasonably believes that disclosure is medically necessary in order to provide timely care and treatment for the patient and, after appropriate counseling as to the need for such disclosure, the patient has not and will not inform the person authorized by law to consent to health care. The physician shall not make such disclosure if, in the judgment of the physician, the disclosure would not be in the best interest of the patient or of the individual authorized by law to consent to such care and treatment. Any decision or action by a physician pursuant to this

Paragraph and the basis thereof shall be recorded in the patient's medical record.

F. A physician may choose, notwithstanding any other provision of law to the contrary, not to disclose the results of a confidential HIV test to a person upon whom such a test has been performed when in the medical opinion of the physician the disclosure of such results would be medically contraindicated.

1300.15. Court authorization for disclosure of confidential HIV test results

A. Notwithstanding any other provision of law, no court shall issue an order for the disclosure of confidential HIV test results except a court of record of competent jurisdiction in accordance with the provisions of this Part.

B. A court may grant an order for disclosure of confidential HIV test results upon an application showing:

(1) A compelling need for disclosure of the information for the adjudication of a criminal or civil proceeding.

(2) A clear and imminent danger to an individual whose life or health may unknowingly be at significant risk as a result of contact with the individual to whom the information pertains.

(3) Upon application of a state, parish, or local health officer, a clear and imminent danger to the public health.

(4) That the applicant is lawfully entitled to the disclosure and the disclosure is consistent with the provisions of this Part.

C. Upon receiving an application for an order authorizing disclosure pursuant to this Section, the court shall enter an order directing that all pleadings, papers, affidavits, judgments, orders of the court, briefs, and memoranda of law which are part of the application or the decision thereon, be sealed and not made available to any person, except to the extent necessary to conduct any proceedings in connection with the determination of whether to grant or deny the application, including any appeal. Such an order shall further direct that all subsequent proceedings in connection with the application, shall be conducted in camera, and, where appropriate to prevent the unauthorized disclosure of confidential HIV test results, that any pleadings, papers, affidavits, judgments, orders of the court, briefs, and memoranda of law which are part of the application or the decision thereon omit the name of the individual concerning whom confidential HIV test results are sought.

D.(1) The individual concerning whom confidential HIV test results are sought and any person holding records concerning confidential HIV test results from whom disclosure is sought shall be given adequate notice of such application in a manner



that shall not disclose to any other person the identity of the individual, and shall be afforded an opportunity to file a written response to the application, or to appear in person for, the limited purpose of providing evidence on the statutory criteria for the issuance of an order pursuant to this Section.

(2) The court may grant an order without such notice and opportunity to be heard, if an ex parte application by a public health officer shows a clear and imminent danger to an individual whose life or health may unknowingly be at risk.

(3) The service of a subpoena shall not be subject to this Subsection.

E. In assessing the compelling need and clear and imminent danger, the court shall provide written findings of fact, including scientific or medical findings, citing specific evidence in the record that supports each finding, and shall weigh the need for disclosure against the privacy interest of the protected individual and against the public interest that may not be served by disclosure which deters future testing or treatment or which may lead to discrimination.

F. An order authorizing disclosure of confidential HIV test results shall:

(1) Limit disclosure to that information necessary to fulfill the purpose for which the order is granted.

(2) Limit disclosure to those persons whose need for the information is the basis for the order, and specifically prohibit additional disclosure by such persons to any other persons, regardless of whether they are parties to the action.

(3) To the extent possible consistent with this Section, conform to the provisions of this Part.

(4) Include such other measures as the court deems necessary to limit any disclosures not authorized by its order.

#### 1300.16. Rules and regulations; forms; report

The office of public health of the Department of Health and Hospitals shall promulgate rules and regulations in accordance with the Administrative Procedure Act' and develop forms and informational materials to be used for written informed consent for HIV-related testing and for disclosure of HIV test results. The use of forms developed by the office of public health shall constitute a legal presumption that consent to HIV-related testing was validly obtained. Health facilities and health care providers may use forms for -informed consent or secure verbal informed Consent for HIV-related testing, and for the release of confidential HIV test results other than those forms developed pursuant to this Section, provided, however, there shall be no legal presumption that consent secured through such means will be deemed valid. The form developed by the office of public health

which authorizes release of medical records shall include a statement informing the individual executing the form of the right to refuse to disclose HIV test results, and the form shall also include a means for the individual to refuse to authorize disclosure of HIV test results. M1 forms developed or authorized pursuant to this Section shall be written in a clear and coherent manner using words with common, everyday meanings.

2018.1. Louisiana Commission on HIV and AIDS

A. There shall be established within the Department of Health and Hospitals a commission which shall be designated the "Louisiana Commission on HIV and AIDS", composed of twenty-five members, as provided in Subsection B of this Section.

B. (1) Fifteen members shall be appointed by the governor as follows:

(a) Two persons infected with the human immunodeficiency virus (HIV), at least one of whom represents a racial or ethnic subpopulation.

(b) Two representatives of community-based provider organizations providing services to persons infected with the human immunodeficiency virus, one of which represents a racial or ethnic subpopulation.

(c) One representative of the Louisiana Primary Care Association.

(d) Four representatives of the Ryan White Regional Consortia.

(e) One physician representative from the Louisiana State Medical Society.

(f) One nurse representative from the Louisiana Nursing Association.

(g) One social worker representative of the Louisiana Chapter of the National Association of Social Workers.

(h) One representative from the Louisiana Coalition For Maternal and Infant Health.

(i) One representative from the Louisiana Nursing Home Association.

(j) One representative from Children's Hospital Pediatric AIDS Program.

(2) The superintendent of the Department of Education, or his designee.

(3) The secretary of the Department of Public Safety and Corrections, or his designee.

(4) The secretary of the Department of Social Services, or his designee.

(5) The commissioner of the Department of Insurance, or his designee.

(6) The secretary of the Department of Health and Hospitals, or his designee and one additional person representing the

department appointed by the secretary.

(7) The chancellor of the Louisiana State University School of Medicine, or his designee.

(8) The chancellor of the Tulane University School of Medicine, or his designee.

(9) One member of the Senate appointed by the president of the Senate.

(10) One member of the House of Representatives appointed by the speaker of the House of Representatives.

(11) The governor shall strive for diversity in geography, race, sex, and educational background in appointing members to the commission. Each member appointed by the governor shall serve at his pleasure and shall be subject to Senate confirmation. The legislative members shall serve at the pleasure of the presiding officer of the respective legislative body.

C. The chairman of the commission shall be elected annually by the commission members and shall serve as chairman without salary. The chairman shall report directly to the secretary.

D. The commission shall hold at least four regular meetings each year at a place designated by the chairman. At least two of these regular meetings shall be for the purpose of reviewing reports of the Ryan White Regional Consortia. The commission members shall be compensated for travel in connection with commission meetings and official commission business as approved by the chairman of the commission. Reimbursement for travel expenses shall be in accordance with the travel regulations of the division of administration. All meetings of the commission shall be convened in the state of Louisiana.

E. The functions of the commission shall be to:

(1) Serve as an advisory body to the Department of Health and Hospitals on HIV and AIDS related matters.

(2) Serve as a coordinating forum on HIV and AIDS related matters between and among state agencies, local government, and other nongovernmental groups.

(3) Research and review all state regulations, guidelines, policies, and procedures relative to prevention of HIV infection and AIDS and, when appropriate, make recommendations to the secretary of the Department of Health and Hospitals and the legislature.

(4) Provide a forum for an annual public hearing on HIV and AIDS related matters as well as a mechanism for other public comment and peer review on federal and state-funded programs related to HIV and AIDS.

P. The commission shall terminate on September 1, 1994.

SUBPART A. ELDERLY, BLIND AND DISABLED

153. Medical assistance

\*\*\*

F. The Department of Health and Hospitals shall implement an expedited Medicaid eligibility review program for persons diagnosed as having acquired immune deficiency syndrome (AIDS). If a preliminary review indicates a preponderance of evidence for presumptive Medicaid eligibility, then full, temporary Medicaid coverage for the person with AIDS shall be extended immediately and shall continue until such time as the final Medicaid application either is denied or until permanent eligibility is established and full, permanent coverage commences. If a final determination of ineligibility is made, the person with AIDS shall reimburse the department for funds expended on his behalf by the department during the period of temporary Medicaid coverage. The department shall promulgate rules as necessary for the implementation of this Subsection.

924. AIDS treatment services

A. Each state-owned and operated medical acute care hospital in the state shall establish, operate, and maintain an AIDS testing and treatment services program to the extent and level provided by funds appropriated by the legislature.

B. Each state owned and operated medical acute care hospital shall have an AIDS counselor or a system of AIDS counseling designed to insure that the needs of the patient are met.

C. The secretary of the Department of Health and Hospitals shall promulgate rules and regulations for the provision of AIDS testing and treatment services in accordance with generally accepted AIDS testing and treatment practices and the Administrative Procedure Act.

D. Each AIDS testing and treatment services program shall develop links with other providers of services to AIDS patients in the community.

19a-585. Requirements for disclosure of HIV-related information

(a) Whenever confidential HIV-related information is disclosed it shall be accompanied by a statement in writing, whenever possible, which includes the following or substantially similar language: "This information has been disclosed to you from records whose confidentiality is protected by State law. State law prohibits you from making any further disclosure of it without the specific written consent of the person to whom it pertains, or as otherwise permitted by said law. A general authorization for the release of medical or other information is NOT sufficient for this purpose." An oral disclosure shall be accompanied or followed by such a notice within ten days.

(b) Except for disclosures made to a federal, state, or local health officer when such disclosure is mandated or authorized by

federal or state law or to persons reviewing information or records in the ordinary course of ensuring that a health facility is in compliance with applicable quality of care standards or any other authorized program evaluation, program monitoring or service review, a notation of all such disclosures shall be placed in the medical record or with any record of an HIV-related test result of a protected individual, who shall be informed of such disclosures upon request; provided for disclosures made to governmental agents requiring information necessary for payments to be made on behalf of patients or clients pursuant to contract or law, such notation need only be entered at the time the disclosure is first made.

(c) Nothing in this section shall limit a person's or agency's responsibility to report, investigate or disclose child protective services information pursuant to section 17a-101 and regulations adopted pursuant to said section.

(d) The provisions of subsections (a) and (b) of this section shall not be applicable to disclosures made pursuant to Subdivision (11) of subsection (a) of section 19a-583.

(e) Nothing in this act shall prohibit the recording of HIV and AIDS-related information in the medical chart or medical records of a protected individual or the listing of AIDS, HIV-related illness or 11W infection in a certificate of death or autopsy report. This chapter shall not be construed to modify regulations relating to access to death certificates or autopsy reports. This chapter shall not be construed to modify the provisions of section 19a-25 or 19a-221.

#### 19a-486. Testing for insurance purposes

(a) Any insurer that requests an applicant for insurance coverage to take an HIV-related test shall obtain the applicant's written informed consent for such test prior to conducting it.

(b) The insurance commissioner shall adopt regulations, in consultation with the commissioner of health services and in accordance with the provisions of chapter 54, which establish all necessary requirements for the provision of informed consent pursuant to the provisions of subsection (a) of this section. Such regulations shall include, but not be limited to, requirements regarding (1) sufficient notice at the time of application that the insured will be tested for HIV infection and (2) an explanation of AIDS and HIV infection.

#### 19a-587. Disclosure by insurers

Nothing in this chapter shall prohibit the disclosure by a life or health insurer or health care center of a positive HIV-related test result to an organization that assembles or collects information about insurance applicants for the purposes of

detecting fraud, misrepresentation, or nondisclosure in connection with insurance underwriting, provided such result is provided as a nonspecific blood test result, within a general code category, which code is not designated solely for HIV-related test results and provided the majority of results included in the general code are not HIV-related and the code does not otherwise allow members of the organization to reasonably identify an applicant's test result as an HIV-related test.

19a-588. Notification of procedures to certain municipal employees

Each town shall notify its police, fire and emergency medical services personnel of the procedures under subdivision (5) of subsection (e) of section 19a-582 and subdivision (7) of subsection (a) of section 19a-583 pertaining to workers who have experienced a significant exposure.

19-589. Regulations

The commissioner shall adopt such regulations, as he deems necessary, in accordance with the provisions of chapter 54, to implement the provisions of sections 19a-581 to 19a-585, inclusive.

19a-590. Liability for violations

Any person, except as otherwise provided in this chapter, who willfully violates any provision of this chapter shall be liable in a private cause of action for injuries suffered as a result of such violation. Upon a finding that an individual has been injured as a result of such violation, damages shall be assessed in the amount sufficient to compensate said individual for such injury.

19a-591. Definitions

As used in sections 19a-591 to 19a-591c, inclusive:

(1) "AIDS vaccine" means a vaccine which has been developed by a manufacturer, is being tested and administered at a research institution for purposes of determining whether it provides immunity to acquired immune deficiency syndrome or is of therapeutic benefit to persons or fetuses infected with the acquired immune deficiency syndrome virus, and for which an investigational new drug application is on file with the federal Food and Drug Administration and is in effect.

(2) "Manufacturer" means any person who is domiciled or has his principal place of business in this state and has developed an AIDS vaccine.