

Utah

Introduction and Table of Contents

January 28, 2009

To the Reader:

The *Compendium of State HIV Testing Laws* describes key state HIV testing laws and policies. Each state's HIV testing laws are unique and many have undergone revision or supplementation since the release of the [CDC's 2006 HIV testing recommendations](#). The *Compendium* is designed to help clinicians understand HIV testing laws and to implement sound HIV testing policies. It should not, however, be used as an official legal document.

The NCCC provides clinical consultation for healthcare providers as part of the HRSA [AIDS Education and Training Centers](#) program. Clinicians with questions about HIV testing are encouraged to call the *National HIV Telephone Consultation Service (Warmline)* at **(800) 933-3413**. The Warmline also provides advice on HIV management, including antiretroviral treatment. Other NCCC consultation services include: the National Clinicians' Post-Exposure Prophylaxis Hotline ([PEPLine](#)) at **(888) 448-4911** for advice on managing occupational exposures to HIV and hepatitis; and the National Perinatal Consultation and Referral Service ([Perinatal HIV Hotline](#)) at **(888) 448-8765** for consultation on preventing mother-to-child transmission of HIV.

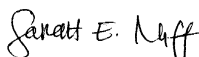
We update the *Compendium* periodically, but it is beyond the scope of the project to perform ongoing verification of every section frequently. We encourage readers to send comments, corrections, and updates (with citations when possible) to Sarah Neff at neffs@nccc.ucsf.edu.

Thank you,



Ronald H. Goldschmidt, MD
Director

&



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The Warmline, PEPLine, and Perinatal Hotline are part of the National HIV/AIDS Clinicians' Consultation Center (NCCC) based at San Francisco General Hospital/ UCSF. The NCCC is a component of the **AIDS Education and Training Centers (AETC) Program** funded by the Ryan White CARE Act of the **Health Resources and Services Administration (HRSA)** HIV/AIDS Bureau in partnership with the **Centers for Disease Control and Prevention (CDC)**.

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Definitions and Helpful Resources

January 28, 2009

Definitions Commonly Used Nationally

- **Anonymous Testing** – Patient's name is not recorded with test results.
- **Confidential** – Patient's name is recorded with test results.
- **HIV Prevention Counseling** – Refers to an interactive process of assessing risk, recognizing specific behaviors that increase the risk for acquiring or transmitting HIV and developing a plan to take specific steps to reduce risks.¹
 - **Pre-test counseling** can include: (1) discussing HIV, risk factors and prevention methods; (2) explaining the meaning of positive and negative test results and their implications; (3) assessing the patient's personal and social supports; (4) determining the patient's readiness to cope with test results; (5) discussing disclosure of test results to others; and (6) advising the patient if reporting positive test results to health authorities is required.
 - **Post-test counseling** can include: (1) informing the patient of the results and meaning of the test results; (2) providing education about avoiding risks of sexual and injection drug exposures; and, for patients who test positive, (3) assessing the impact of test results for the patient and family; (3) explaining treatment options; (4) discussing partner counseling and disclosure of test results to others; and (5) initiating a support and treatment plan.
- **General Consent** – Consent for HIV screening is included in the general medical consent.
- **HIV** – Human Immunodeficiency Virus.
- **Informed Consent** – A process of communication between patient and provider through which an informed patient can choose whether to undergo HIV testing or decline to do so. Elements of informed consent typically include providing oral or written information regarding HIV, the risks and benefits of testing, the implications of HIV test results, how test results will be communicated, and the opportunity to ask questions.¹
- **Name-based reporting** – Cases are reported by patient name (required in all states except HI and VT).
- **Opt-in** – Patients typically are provided pre-HIV test counseling and must consent specifically to an HIV-antibody test, either orally or in writing.²
- **Opt-out** – Performing HIV screening after notifying the patient that: the test will be performed; and the patient may elect to decline or defer testing. Assent is inferred unless the patient declines testing.¹
- **Routine Testing** – HIV screening that is performed routinely during health-care encounters.
- **Rapid Testing** – Testing with any of the six FDA-approved rapid HIV tests that produce results in 30 minutes or less.³
- **Specific Consent** – Consent for the HIV screening is separate from the general medical consent.

Helpful Resources

CDC Recommendations and Guidelines: <http://www.cdc.gov/hiv/topics/testing/guideline.htm>

Emergency Department Implementation Guide: <http://edhivtestguide.org/>

Prenatal HIV Testing Website: <http://www.cdc.gov/hiv/topics/perinatal/1test2lives/>

For questions or comments about the compendium, contact NCCC: NCCCTemp@nccc.ucsf.edu

Clinicians with questions about HIV testing can call the Warmline at 800-933-3413.

¹ Revised Recommendations for HIV Testing of Adults, Adolescents, and Pregnant Women in Health-Care Settings. MMWR Recomm Rep. 2006 Sep 22;55(RR-14):1-17; quiz CE1-4. <http://www.cdc.gov/mmwr/preview/mmwrhtml/rr5514a1.htm>

² <http://www.cdc.gov/mmwr/PDF/wk/mm5145.pdf>

³ <http://www.cdc.gov/hiv/topics/testing/resources/factsheets/rt-lab.htm>

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A Quick Reference Guide for Clinicians to Utah HIV Testing Laws

January 28, 2009

This Quick Reference Guide for clinicians is a summary of relevant Utah state HIV testing laws. Note that if a section in this Quick Reference Guide reads “no specific provisions were found,” provisions actually might exist for this topic within the state’s statutes, codes, or rules and regulations, but probably are not essential to clinicians.

For a more complete synopsis of Utah HIV testing laws, please refer to the section of the Compendium that follows this Quick Reference Guide.

Informed Consent

- No specific provisions regarding consent were found.

Counseling

- No specific provisions regarding counseling were found.

Provisos of Testing

- **Anonymous**
 - Anonymous testing is available at designated anonymous testing sites.
- **Rapid**
 - No specific provisions regarding rapid testing were found.
- **Routine**
 - No specific provisions regarding routine testing were found.

Disclosure

- Notification to sexual and needle-sharing partners of possible exposure to HIV by health departments is required.

Minor/Adolescent Testing

- Minors may consent to STD testing, HIV not explicitly included.

Utah

Perinatal Quick Reference Guide:

A Guide to Utah Perinatal HIV Testing Laws for Clinicians

January 28, 2009

This Perinatal Quick Reference Guide for clinicians is a summary of relevant Utah perinatal state HIV testing laws. Note that if a section in this Quick Reference Guide reads “no specific provisions were found,” provisions actually might exist for this topic within the state’s statutes, codes, or rules and regulations, but probably are not essential to clinicians.

For a more complete synopsis of Utah HIV testing laws, please refer to the corresponding section of the *State HIV Testing Laws Compendium* (www.nccc.ucsf.edu), “Testing of pregnant women and/or newborns.”

Prenatal

- **Initial visit**
 - No specific provisions regarding initial visit prenatal testing were found.
- **Third trimester**
 - No specific provisions regarding third trimester prenatal testing were found.

Labor & Delivery

- No specific provisions regarding labor & delivery testing were found.

Neonatal

- No specific provisions regarding neonatal testing were found.

Other

- N/A

Utah
State Policies Relating to HIV Testing, 2009

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Utah Administrative Rules [UAR]

Titles R380-R444: Health..... Pages 23-29

| | Policy Category | Type | Section Code(s) |
|-------------------------------|---|--|--------------------------------------|
| RESTRICTIONS/ MANDATES | Restrictions on use of HIV test | Schools cannot use HIV test results to discriminate | UAR R388-802-4 UAR R388-802-5 |
| | | Insurance companies may not administer HIV testing on unfair basis | UAR R590-132-3 |
| | Mandatory testing within the criminal justice system | All inmates | UCA § 64-13-36 |
| | | Convicted sex offenders | UCA § 26-1-30 UCA § 76-5-502 |
| | | Potential transmission to victim upon request of victim | UCA § 76-5-502 UCA § 76-5-503 |
| | | Persons convicted of prostitution charges | UCA § 76-10-1311 UCA § 76-10-1302 |
| | | Persons convicted of patronizing a prostitute | UCA § 76-10-1311 UCA § 76-10-1303 |
| | | Persons convicted of sexual solicitation | UCA § 76-10-1311 UCA § 76-10-1313 |
| | Mandatory testing outside of the criminal justice system | Occupational exposure – EMS may request testing of source patient | UAR R388-801-4 |
| | | Professional boxers | UCA § 63C-11-315 UCA § 63C-11-317 |
| PRE-TESTING | Mandatory offering of HIV/AIDS information and/or testing | No related laws found | |
| | Informed consent | Consent required for insurance testing – written release form | UAR R590-132-3 |

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| | | Source patient consent required unless patient convicted of a crime, under jurisdiction of Corrections, or is deceased in cases of EMS exposure | UAR R388-801-4 |
| | Counseling requirements | Pre- and post-test counseling for sex offense victims who request testing of a sexual offender | UCA § 76-5-504 |
| | | Post-test counseling must be offered to prisoners | UCA § 64-13-36 |
| | | Mandated pre-test counseling of patient when testing requested by EMS | UAR R388-801-4 |
| | Anonymous testing | State department of health may sponsor one pilot anonymous testing site | UCA § 26-6-3.5 |
| POST-TESTING | Disclosure/confidentiality | HIV test results confidential, with some exclusions | UCA § 26-6-30 |
| | | Partner notification – Department of health will conduct sexual and needle-sharing partner notification | UCA § 26-6-3.5 UAR R388-803-4 |
| | | Disclosure to EMS by case number in cases of exposure | UAR R388-801-4 |
| | Reporting | HIV diagnoses must be reported – name-based reporting | UAR R388-803-2 |
| | | Anonymous testing sites must report prevalence | UCA § 26-6-3.5 |
| OTHER | Testing of pregnant women and/or newborns | No related laws found | |
| | Testing of minors/adolescents | Minors may consent to services for venereal disease, HIV not included | UCA § 26-6-18 |
| | Rapid HIV testing | No related laws found | |
| | Training and education of health care providers | No related laws found | |

Recommended Resources

Utah Code – Statutes and Constitution

<http://www.le.state.ut.us/~code/code.htm>

Utah Administrative Rules

<http://www.rules.utah.gov/publicat/code.htm>

Utah Department of Health

<http://health.utah.gov/>

Title 13: Commerce and Trade

| UT Title 13 Code § | Code Language |
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| § 13-33-405 | <p data-bbox="440 352 992 384">Medical examinations and drug tests</p> <p data-bbox="440 417 1409 512">The commission shall adopt rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, for medical examinations and drug testing of contestants including:</p> <p data-bbox="440 546 1409 640">(1) provisions under which contestants shall produce evidence based upon competent laboratory examination that they are HIV negative as a condition of participating as a contestant in any contest;</p> <p data-bbox="440 674 1442 867">(2) provisions under which contestants shall be subject to random drug testing before or after participation in a contest, and sanctions, including barring participation in a contest or withholding a percentage of any purse, that shall be placed against a contestant testing positive for alcohol or any other drug that in the opinion of the commission is inconsistent with the safe and competent participation of that contestant in a contest;</p> <p data-bbox="440 900 1425 1094">(3) provisions under which contestants shall be subject to a medical examination by the ringside physician not more than 30 hours before the contest to identify any physical ailment or communicable disease that, in the opinion of the commission or designated commission member, are inconsistent with the safe and competent participation of that contestant in the contest; and</p> <p data-bbox="440 1127 1438 1255">(4) provisions under which contestants shall be subject to medical testing for communicable diseases as considered necessary by the commission to protect the health, safety, and welfare of the licensees and the public.</p> |

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| Title 26: Utah Health Code |
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| UT Title 26 Code § | Code Language |
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| § 26-1-30 | <p>Powers and duties of department</p> <p>(1) The department shall:</p> <p>(o) cooperate with the local health departments, the Department of Corrections, the Administrative Office of the Courts, the Division of Juvenile Justice Services, and the Crime Victims Reparations Board to conduct testing for HIV infection of convicted sexual offenders and any victims of a sexual offense;</p> |
| § 26-6-3.5 | <p>Reporting AIDS and HIV infection -- Anonymous testing</p> <p>(1) Because of the nature and consequences of Acquired Immunodeficiency Syndrome and Human Immunodeficiency Virus infection, the department shall:</p> <p>(a) require reporting of those conditions; and</p> <p>(b) utilize contact tracing and other methods for "partner" identification and notification. The department shall, by rule, define individuals who are considered "partners" for purposes of this section.</p> <p>(2) (a) The requirements of Subsection (1) do not apply to seroprevalence and other epidemiological studies conducted by the department.</p> <p>(b) The requirements of Subsection (1) do not apply to, and anonymity shall be provided in, research studies conducted by universities or hospitals, under the authority of institutional review boards if those studies are funded in whole or in part by research grants and if anonymity is required in order to obtain the research grant or to carry out the research.</p> <p>(3) For all purposes of this chapter, Acquired Immunodeficiency Syndrome and Human Immunodeficiency Virus infection are considered communicable and infectious diseases.</p> <p>(4) The department may establish or allow one site or agency within the state to provide anonymous testing.</p> <p>(a) The site or agency that provides anonymous testing shall maintain accurate records regarding:</p> <p>(i) the number of HIV positive individuals that it is able to contact or inform of their condition;</p> <p>(ii) the number of HIV positive individuals who receive extensive counseling;</p> <p>(iii) how many HIV positive individuals provide verifiable information for partner notification; and</p> <p>(iv) how many cases in which partner notification is carried through.</p> <p>(b) A statistical report of the information maintained under Subsection (4)(a) shall be presented to the Health and Human Services Interim Committee on an annual basis. The information collected under</p> |

| UT Title 26 Code § | Code Language |
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| | <p>Subsection (4)(a) and the reports required by this subsection shall be maintained and presented in such a way that no individual is identifiable.</p> <p>(c) If the information and reports indicate anonymous testing is not resulting in partner notification, the department shall phase out the anonymous testing program allowed by this subsection.</p> |
| § 26-6-4 | <p>Involuntary examination, treatment, isolation, and quarantine.</p> <p>(1) The following individuals or groups of individuals are subject to examination, treatment, quarantine, or isolation under a department order of restriction:</p> <p>(a) an individual who is infected or suspected to be infected with a communicable disease that poses a threat to the public health and who does not take action as required by the department or the local health department to prevent spread of the disease;</p> <p>(b) an individual who is contaminated or suspected to be contaminated with an infectious agent that poses a threat to the public health and that could be spread to others if remedial action is not taken;</p> <p>(c) an individual who is in a condition or suspected condition which, if exposed to others, poses a threat to public health, or is in a condition which if treatment is not completed will pose a threat to public health; and</p> <p>(d) an individual who is contaminated or suspected to be contaminated with a chemical or biological agent that poses a threat to the public health and that could be spread to others if remedial action is not taken.</p> <p>(2) If an individual refuses to take action as required by the department or the local health department to prevent the spread of a communicable disease, infectious agent, or contamination, the department or the local health department may order involuntary examination, treatment, quarantine, or isolation of the individual and may petition the district court to order involuntary examination, treatment, quarantine, or isolation in accordance with Title 26, Chapter 6b, Communicable Diseases - Treatment, Isolation, and Quarantine Procedures.</p> |
| 26-6-6 | <p>Duty to report individual suspected of having communicable disease.</p> <p>The following shall report to the department or the local health department regarding any individual suffering from or suspected of having a disease that is communicable, as required by department rule:</p> <p>(1) health care providers as defined in Section 78-14-3;</p> <p>(2) facilities licensed under Title 26, Chapter 21, Health Care Facility Licensure and Inspection Act;</p> <p>(3) health care facilities operated by the federal government;</p> <p>(4) mental health facilities;</p> <p>(5) care facilities licensed by the Department of Human Services;</p> <p>(6) nursing homes and other care facilities;</p> <p>(7) dispensaries, clinics, or laboratories that diagnose, test, or</p> |

| UT Title 26 Code § | Code Language |
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| | <p>otherwise care for individuals who are suffering from a disease suspected of being communicable;</p> <p>(8) individuals who have knowledge of others who have a communicable disease;</p> <p>(9) individuals in charge of schools having responsibility for any individuals who have a disease suspected of being communicable; and</p> <p>(10) child care programs, as defined in Section 26-39-102.</p> |
| § 26-6-18 | <p>Venereal disease -- Consent of minor to treatment</p> <p>(1) A consent to medical care or services by a hospital or public clinic or the performance of medical care or services by a licensed physician executed by a minor who is or professes to be afflicted with a sexually transmitted disease, shall have the same legal effect upon the minor and the same legal obligations with regard to the giving of consent as a consent given by a person of full legal age and capacity, the infancy of the minor and any contrary provision of law notwithstanding.</p> <p>(2) The consent of the minor shall not be subject to later disaffirmance by reason of minority at the time it was given and the consent of no other person or persons shall be necessary to authorize hospital or clinical care or services to be provided to the minor by a licensed physician.</p> <p>(3) The provisions of this section shall apply also to minors who profess to be in need of hospital or clinical care and services or medical care or services provided by a physician for suspected sexually transmitted disease, regardless of whether such professed suspicions are subsequently substantiated on a medical basis.</p> |
| § 26-6-27 | <p>Information regarding communicable or reportable disease confidential -- Exceptions.</p> <p>(1) Information collected pursuant to this chapter in the possession of the department or local health departments relating to an individual who has or is suspected of having a disease designated by the department as a communicable or reportable disease under this chapter shall be held by the department and local health departments as strictly confidential. The department and local health departments may not release or make public that information upon subpoena, search warrant, discovery proceedings, or otherwise, except as provided by this section.</p> <p>(2) The information described in Subsection (1) may be released by the department or local health departments only in accordance with the requirements of this chapter and as follows:</p> <p>(a) specific medical or epidemiological information may be released with the written consent of the individual identified in that information or, if that individual is deceased, his next-of-kin;</p> <p>(b) specific medical or epidemiological information may be released to medical personnel or peace officers in a medical emergency, as</p> |

| UT Title 26 Code § | Code Language |
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| | <p>determined by the department in accordance with guidelines it has established, only to the extent necessary to protect the health or life of the individual identified in the information, or of the attending medical personnel or law enforcement or public safety officers;</p> <p>(c) specific medical or epidemiological information may be released to authorized personnel within the department, local health departments, official health agencies in other states, the United States Public Health Service, the Centers for Disease Control and Prevention (CDC), or when necessary to continue patient services or to undertake public health efforts to interrupt the transmission of disease;</p> <p>(d) if the individual identified in the information is under the age of 18, the information may be released to the Division of Child and Family Services within the Department of Human Services in accordance with Section 62A-4a-403. If that information is required in a court proceeding involving child abuse or sexual abuse under Title 76, Chapter 5, the information shall be disclosed in camera and sealed by the court upon conclusion of the proceedings;</p> <p>(e) specific medical or epidemiological information may be released to authorized personnel in the department or in local health departments, and to the courts, to carry out the provisions of this title, and rules adopted by the department in accordance with this title;</p> <p>(f) specific medical or epidemiological information may be released to blood banks, organ and tissue banks, and similar institutions for the purpose of identifying individuals with communicable diseases. The department may, by rule, designate the diseases about which information may be disclosed under this subsection, and may choose to release the name of an infected individual to those organizations without disclosing the specific disease;</p> <p>(g) specific medical or epidemiological information may be released in such a way that no individual is identifiable;</p> <p>(h) specific medical or epidemiological information may be released to a "health care provider" as defined in Section 78-14-3, health care personnel, and public health personnel who have a legitimate need to have access to the information in order to assist the patient, or to protect the health of others closely associated with the patient. This subsection does not create a duty to warn third parties, but is intended only to aid health care providers in their treatment and containment of infectious disease; and</p> <p>(i) specific medical or epidemiological information regarding a health care provider, as defined in Section 78-14-3, may be released to the department, the appropriate local health department, and the Division of Occupational and Professional Licensing within the Department of Commerce, if the identified health care provider is endangering the safety or life of any individual by his continued practice of health care.</p> |
| § 26-6-30 | <p>Exclusions from confidentiality requirements.</p> <p>(1) The provisions of this chapter do not apply to:</p> <p>(a) information that relates to an individual who is in the custody of the Department of Corrections, a county jail, or the Division of Juvenile</p> |

| UT Title 26 Code § | Code Language |
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| | <p>Justice Services within the Department of Human Services;</p> <p>(b) information that relates to an individual who has been in the custody of the Department of Corrections, a county jail, or the Division of Juvenile Justice Services within the Department of Human Services, if liability of either of those departments, a county, or a division, or of an employee of a department, division, or county, is alleged by that individual in a lawsuit concerning transmission of an infectious or communicable disease; or</p> <p>(c) any information relating to an individual who willfully or maliciously or with reckless disregard for the welfare of others transmits a communicable or infectious disease.</p> <p>(2) Nothing in this chapter limits the right of the individual identified in the information described in Subsection 26-6-27(1) to disclose that information.</p> |

Title 26A: Local Health Authorities

| UT Title 26A Code § | Code Language |
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| § 26A-1-114 | <p>Powers and duties of departments</p> <p>(1) A local health department may:</p> <p>(n) cooperate with the state health department, the Department of Corrections, the Administrative Office of the Courts, the Division of Juvenile Justice Services, and the Crime Victims Reparations Board to conduct testing for HIV infection of convicted sexual offenders and any victims of a sexual offense;</p> <p>(2) The local health department shall:</p> <p>(b) investigate infectious and other diseases of public health importance and implement measures to control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health which may include involuntary testing of convicted sexual offenders for the HIV infection pursuant to Section 76-5-502 and voluntary testing of victims of sexual offenses for HIV infection pursuant to Section 76-5-503;</p> |

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| Title 63C: State Commissions and Councils Code |
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| UT Title 63C Code § | Code Language |
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| § 63C-11-315 | <p>Approval to hold contest or promotion -- Bond required.</p> <p>(1) An application to hold a contest or multiple contests as part of a single promotion shall be made by a licensed promoter to the commission on forms provided by the commission.</p> <p>(2) The application shall be accompanied by a contest fee determined by the commission under Section 63-38-3.2.</p> <p>(3) (a) The commission may approve or deny approval to hold a contest or promotion permitted under this chapter. (b) Provisional approval under Subsection (3)(a) shall be granted upon a determination by the commission that: (i) the promoter of the contest or promotion is properly licensed; (ii) a bond meeting the requirements of Subsection (6) has been posted by the promoter of the contest or promotion; and (iii) the contest or promotion will be held in accordance with this chapter and rules made under this chapter.</p> <p>(4) (a) Final approval to hold a contest or promotion may not be granted unless the commission receives not less than seven days before the day of the contest with ten or more rounds: (i) proof of a negative HIV test performed not more than 180 days before the day of the contest for each contestant; (ii) a copy of each contestant's federal identification card; (iii) a copy of a signed contract between each contestant and the promoter for the contest; (iv) a statement specifying the maximum number of rounds of the contest; (v) a statement specifying the site, date, and time of weigh-in; and (vi) the name of the physician selected from among a list of registered and commission-approved ringside physicians who shall act as ringside physician for the contest. (b) Notwithstanding Subsection (4)(a), the commission may approve a contest or promotion if the requirements under Subsection (4)(a) are not met because of unforeseen circumstances beyond the promoter's control.</p> <p>(5) Final approval for a contest under ten rounds in duration may be granted as determined by the commission after receiving the materials identified in Subsection (4) at a time determined by the commission.</p> <p>(6) An applicant shall post a surety bond or cashier's check with the commission in the greater of \$10,000 or the amount of the purse, providing for forfeiture and disbursement of the proceeds if the applicant fails to comply with: (a) the requirements of this chapter; or (b) rules made under this chapter relating to the promotion or</p> |

| UT Title 63C Code § | Code Language |
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| | conduct of the contest or promotion. |
| § 63C-11-317 | <p>Medical examinations and drug tests.</p> <p>(1) The commission shall adopt rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, for medical examinations and drug testing of contestants, including provisions under which contestants shall:</p> <ul style="list-style-type: none"> (a) produce evidence based upon competent laboratory examination that they are HIV negative as a condition of participating as a contestant in any contest; (b) be subject to random drug testing before or after participation in a contest, and sanctions, including barring participation in a contest or withholding a percentage of any purse, that shall be placed against a contestant testing positive for alcohol or any other drug that in the opinion of the commission is inconsistent with the safe and competent participation of that contestant in a contest; (c) be subject to a medical examination by the ringside physician not more than 30 hours before the contest to identify any physical ailment or communicable disease that, in the opinion of the commission or designated commission member, are inconsistent with the safe and competent participation of that contestant in the contest; and (d) be subject to medical testing for communicable diseases as considered necessary by the commission to protect the health, safety, and welfare of the licensees and the public. <p>(2) (a) Medical information concerning a contestant shall be provided by the contestant or medical professional or laboratory.</p> <p>(b) A promoter or manager may not provide to or receive from the commission medical information concerning a contestant.</p> |

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| Title 64: State Institutions |
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| UT Title 64 Code § | Code Language |
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| § 64-13-36 | <p>Testing of prisoners for AIDS and HIV infection -- Medical care -- Department authority</p> <p>(1) As used in this section:</p> <p>(a) "Prisoner" means a person who has been adjudicated and found guilty of a criminal offense and who is in the custody of and under the jurisdiction of the department.</p> <p>(b) "Test" or "testing" means a test or tests for Acquired Immunodeficiency Syndrome or Human Immunodeficiency Virus infection in accordance with standards recommended by the state Department of Health.</p> <p>(2) (a) Within 90 days after July 1, 1989, the effective date of this act, the department shall test or provide for testing of all prisoners who are under the jurisdiction of the department, and subsequently test or provide for testing of all prisoners who are committed to the jurisdiction of the department upon admission or within a reasonable period after admission.</p> <p>(b) At the time test results are provided to persons tested, the department shall provide education and counseling regarding Acquired Immunodeficiency Syndrome and Human Immunodeficiency Virus infection.</p> <p>(3) (a) The results of tests conducted under Subsection (2) become part of the inmate's medical file, accessible only to persons designated by department rule and in accordance with any other legal requirement for reporting of Acquired Immunodeficiency Syndrome or Human Immunodeficiency Virus infection.</p> <p>(b) Medical and epidemiological information regarding results of tests conducted under Subsection (2) shall be provided to the state Department of Health.</p> <p>(4) The department has authority to take action as medically indicated with regard to any prisoner who has tested positive for Acquired Immunodeficiency Syndrome or Human Immunodeficiency Virus infection.</p> <p>(5) Prisoners who test positive for Acquired Immunodeficiency Syndrome or Human Immunodeficiency Virus infection may not be excluded from common areas of the prison that are accessible to other prisoners solely on the basis of that condition, unless medically necessary for protection of the general prison population or staff.</p> |

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| Title 76: Utah Criminal Code |
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| UT Title 76 Code § | Code Language |
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| § 76-5-501 | <p>Definitions</p> <p>For purposes of this part:</p> <p>(1) "Convicted sexual offender" means a person or a juvenile as provided in Subsection 76-5-502(1).</p> <p>(2) "Department of Health" means the state Department of Health as defined in Section 26-1-2.</p> <p>(3) "HIV infection" means an indication of Human Immunodeficiency Virus (HIV) infection determined by current medical standards and detected by any of the following:</p> <ul style="list-style-type: none"> (a) presence of antibodies to HIV, verified by a positive "confirmatory" test, such as Western blot or other method approved by the Utah State Health Laboratory. Western blot interpretation will be based on criteria currently recommended by the Association of State and Territorial Public Health Laboratory Directors; (b) presence of HIV antigen; (c) isolation of HIV; or (d) demonstration of HIV proviral DNA. <p>(4) "HIV positive individual" means a person who is HIV positive as determined by the State Health Laboratory.</p> <p>(5) "Local department of health" means the department as defined in Subsection 26A-1-102(5).</p> <p>(6) "Positive" means an indication of the HIV infection as defined in Subsection (3).</p> <p>(7) "Sexual offense" means a violation of state law prohibiting a sexual offense under Title 76, Chapter 5, Part 4.</p> <p>(8) "Test" or "testing" means a test or tests for HIV infection conducted by and in accordance with standards recommended by the Department of Health.</p> |
| § 76-5-502 | <p>Mandatory testing -- Liability for costs</p> <p>(1) (a) A person who has entered a plea of guilty, a plea of no contest, a plea of guilty and mentally ill, a plea of not guilty by reason of insanity or been found guilty for violation of a sexual offense or an attempted sexual offense under Title 76, Chapter 5, Part 4, or a juvenile who is adjudicated to have violated or attempted to violate state law prohibiting a sexual offense under Title 76, Chapter 5, Part 4, shall be required to submit to a mandatory test upon the request of a victim or the parent or legal guardian of the minor victim or victim of a sexual offense within six</p> |

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| | <p>months of conviction to determine if the offender is an HIV positive individual.</p> <p>(b) The court shall order the convicted sexual offender to submit to the test upon sentencing or as a condition of probation. The order to the convicted sexual offender shall not include the identity and address of the victim requesting the test. The court shall forward the order to the Department of Health, including separate information about the victim's identity and address for notification and counseling purposes.</p> <p>(2) If the mandatory test has not been conducted, and the convicted offender or adjudicated juvenile is already confined in a county jail, state prison, or a secure youth corrections facility, the person shall be tested while in confinement.</p> <p>(3) The secure youth corrections facility or county jail shall cause the blood specimen of the offender as defined in Subsection (1) confined in that facility to be taken and shall forward the specimen to the Department of Health.</p> <p>(4) The Department of Corrections shall cause the blood specimen of the offender defined in Subsection (1) confined in any state prison to be taken and shall forward the specimen to the Department of Health as provided in Section 64-13-36.</p> <p>(5) The person tested shall be responsible for the costs of testing, unless the person is indigent. The costs will then be paid by the Department of Health from the General Fund.</p> |
| § 76-5-503 | <p>Voluntary testing -- Victim to request -- Costs paid by Crime Victim Reparations</p> <p>(1) A victim or minor victim of a sexual offense as provided under Title 76, Chapter 5, Part 4, may request a test for the HIV infection.</p> <p>(2) (a) The local health department shall obtain the blood specimen from the victim and forward the specimen to the Department of Health. (b) The Department of Health shall analyze the specimen of the victim.</p> <p>(3) The testing shall consist of a base-line test of the victim at the time immediately or as soon as possible after the alleged occurrence of the sexual offense. If the base-line test result is not positive, follow-up testing shall occur at three months and six months after the alleged occurrence of the sexual offense.</p> <p>(4) The Crime Victim Reparations Fund shall pay for the costs of the victim testing if the victim provides a substantiated claim of the sexual offense, does not test HIV positive at the base-line testing phase, and complies with eligibility criteria established by the Crime Victim Reparations Act.</p> |

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| § 76-5-504 | <p>Victim notification and counseling</p> <p>(1) The Department of Health shall provide the victim who requests testing of the convicted sexual offender's human immunodeficiency virus status counseling regarding HIV disease and referral for appropriate health care and support services. If the local health department where the victim resides and the Department of Health agree, the Department of Health shall forward a report of the convicted sexual offender's human immunodeficiency virus status to the local health department and the local health department shall provide the victim who requests the test with the test results, counseling regarding HIV disease, and referral for appropriate health care and support services.</p> <p>(2) Notwithstanding the provisions of Section 26-6-27, the Department of Health and a local health department acting pursuant to an agreement made under Subsection (1) may disclose to the victim the results of the convicted sexual offender's human immunodeficiency virus status as provided in this section.</p> |
| § 76-10-1302 | <p>Prostitution.</p> <p>(1) A person is guilty of prostitution when:</p> <ul style="list-style-type: none"> (a) he engages in any sexual activity with another person for a fee; (b) is an inmate of a house of prostitution; or (c) loiters in or within view of any public place for the purpose of being hired to engage in sexual activity. <p>(2) Prostitution is a class B misdemeanor. However, any person who is convicted a second time, and on all subsequent convictions, under this section or under a local ordinance adopted in compliance with Section 76-10-1307 is guilty of a class A misdemeanor, except as provided in Section 76-10-1309.</p> |
| § 76-10-1303 | <p>Patronizing a prostitute.</p> <p>(1) A person is guilty of patronizing a prostitute when:</p> <ul style="list-style-type: none"> (a) he pays or offers or agrees to pay another person a fee for the purpose of engaging in an act of sexual activity; or (b) he enters or remains in a house of prostitution for the purpose of engaging in sexual activity. <p>(2) Patronizing a prostitute is a class B misdemeanor, except as provided in Section 76-10-1309.</p> |
| § 76-10-1309 | <p>Enhanced penalties -- HIV positive offender</p> <p>A person who is an HIV positive individual and has actual knowledge of that fact and has received written personal notice of the positive test results from a law enforcement agency pursuant to Section 76-10-1312 and is convicted of:</p> |

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| | <p>(1) prostitution under Section 76-10-1302 shall be guilty of a felony of the third degree;</p> <p>(2) patronizing a prostitute under Section 76-10-1303 shall be guilty of a felony of a third degree; or</p> <p>(3) sexual solicitation under Section 76-10-1313 shall be guilty of a felony of the third degree.</p> |
| § 76-10-1310 | <p>Definitions</p> <p>(1) "HIV infection" means an indication of Human Immunodeficiency Virus (HIV) infection determined by current medical standards and detected by any of the following:</p> <ul style="list-style-type: none"> (a) presence of antibodies to HIV, verified by a positive confirmatory test, such as Western blot or other method approved by the Utah State Health Laboratory. Western blot interpretation will be based on criteria currently recommended by the Association of State and Territorial Public Health Laboratory Directors; (b) presence of HIV antigen; (c) isolation of HIV; or (d) demonstration of HIV proviral DNA. <p>(2) "HIV positive individual" means a person who is HIV positive and has actual knowledge of his disease.</p> <p>(3) "Local law enforcement agency" means the agency responsible for investigation of the violations of Sections 76-10-1302, 76-10-1303, and 76-10-1313, the filing of charges which may lead to conviction, and the conducting of tests for HIV infection.</p> <p>(4) "Notice" means the HIV positive individual has been notified by the law enforcement agency as provided in Section 76-10-1312.</p> <p>(5) "Positive" means an indication of the HIV infection as defined in Subsection (1).</p> <p>(6) "Test" or "testing" means a test or tests for HIV infection in accordance with standards recommended by the Department of Health.</p> |
| § 76-10-1311 | <p>Mandatory testing -- Retention of offender medical file -- Civil liability</p> <p>(1) A person who has entered a plea of guilty, a plea of no contest, a plea of guilty and mentally ill, or been found guilty for violation of Section 76-10-1302, 76-10-1303, or 76-10-1313 shall be required to submit to a mandatory test to determine if the offender is an HIV positive individual. The mandatory test shall be required and conducted prior to sentencing.</p> |

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| | <p>(2) If the mandatory test has not been conducted prior to sentencing, and the convicted offender is already confined in a county jail or state prison, such person shall be tested while in confinement.</p> <p>(3) The local law enforcement agency shall cause the blood specimen of the offender as defined in Subsection (1) confined in county jail to be taken and tested.</p> <p>(4) The Department of Corrections shall cause the blood specimen of the offender defined in Subsection (1) confined in any state prison to be taken and tested.</p> <p>(5) The local law enforcement agency shall collect and retain in the offender's medical file the following data:</p> <ul style="list-style-type: none"> (a) the HIV infection test results; (b) a copy of the written notice as provided in Section 76-10-1312; (c) photographic identification; and (d) fingerprint identification. <p>(6) The local law enforcement agency shall classify the medical file as a private record pursuant to Subsection 63-2-302(1)(b) or a controlled record pursuant to Section 63-2-303.</p> <p>(7) The person tested shall be responsible for the costs of testing, unless the person is indigent. The costs will then be paid by the local law enforcement agency or the Department of Corrections from the General Fund.</p> <p>(8) (a) The laboratory performing testing shall report test results to only designated officials in the Department of Corrections, the Department of Health, and the local law enforcement agency submitting the blood specimen.</p> <p>(b) Each department or agency shall designate those officials by written policy.</p> <p>(c) Designated officials may release information identifying an offender under Section 76-10-1302, 76-10-1303, or 76-10-1313 who has tested HIV positive as provided under Subsection 63-2-202(1) and for purposes of prosecution pursuant to Section 76-10-1309.</p> <p>(9) (a) An employee of the local law enforcement agency, the Department of Corrections, or the Department of Health who discloses the HIV test results under this section is not civilly liable except when disclosure constitutes fraud or willful misconduct as provided in Section 63-30d-202.</p> <p>(b) An employee of the local law enforcement agency, the Department of Corrections, or the Department of Health who discloses the HIV test results under this section is not civilly or criminally liable, except when disclosure constitutes a knowing violation of Section 63-2-801.</p> <p>(10) When the medical file is released as provided in Section 63-2-803, the local law enforcement agency, the Department of Corrections, or the</p> |

| UT Title 76 Code § | Code Language |
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| | Department of Health or its officers or employees are not liable for damages for release of the medical file. |
| § 76-10-1312 | <p>Notice to offender of HIV positive test results</p> <p>(1) A person convicted under Section 76-10-1302, 76-10-1303, or 76-10-1313 who has tested positive for the HIV infection shall be notified of the test results in person at the sentencing hearing in the presence of the judge and counsel only.</p> <p>(2) Whenever practicable, prior to notification in the district court, the offender shall be served personally with written notice by the local law enforcement agency at a meeting with a local law enforcement officer and a person from the state or county health department.</p> <p>(a) At that meeting, the offender shall be informed of the test results and counseled on HIV infection and its effects.</p> <p>(b) The local law enforcement agency shall arrange the time and place of notification and counseling.</p> <p>(3) The notice shall contain the following information:</p> <p>(a) the date of the test;</p> <p>(b) the positive test results;</p> <p>(c) the name of the HIV positive individual; and</p> <p>(d) the following language:</p> <p>"A person who has been convicted of prostitution under Section 76-10-1302, patronizing a prostitute under Section 76-10-1303, or sexual solicitation under Section 76-10-1313 after being tested and diagnosed as an HIV positive individual and receiving actual notice and personal written notice of the positive test results shall be guilty of a felony of the third degree pursuant to Section 76-10-1309."</p> <p>(4) Upon conviction under Section 76-10-1309, and as a condition of probation, the offender shall receive treatment and counseling for HIV infection and drug abuse as provided in Title 62A, Chapter 15, Substance Abuse and Mental Health Act.</p> |
| § 76-10-1313 | <p>Sexual solicitation -- Penalty.</p> <p>(1) A person is guilty of sexual solicitation when:</p> <p>(a) he offers or agrees to commit any sexual activity with another person for a fee; or</p> <p>(b) he pays or offers or agrees to pay another person to commit any sexual activity for a fee.</p> <p>(2) Sexual solicitation is a class B misdemeanor. However, any person who is convicted a second time, and on all subsequent convictions, under this section or under a local ordinance adopted in compliance with Section 76-10-1307, is guilty of a class A misdemeanor, except as provided in Section 76-10-1309.</p> |

Title 77: Utah Code of Criminal Procedure

| UT Title 77 Code § | Code Language |
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| § 77-37-3 | Bill of Rights (1) The bill of rights for victims and witnesses is: (j) Victims of sexual offenses have a right to be informed of their right to request voluntary testing for themselves for HIV infection as provided in Section 76-5-503 and to request mandatory testing of the convicted sexual offender for HIV infection as provided in Section 76-5-502. The law enforcement office where the sexual offense is reported shall have the responsibility to inform victims of this right. |

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| Title 78: Judicial Code |
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| UT Title 78 Code § | Code Language |
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| § 78-3a-904 | <p>When photographs, fingerprints, or HIV infection tests may be taken -- Distribution -- Expungement</p> <p>(1) Photographs may be taken of a minor 14 years of age or older who:</p> <p>(a) is taken into custody for the alleged commission of an offense under Sections 78-3a-104, 78-3a-601, and 78-3a-602 that would also be an offense if the minor were 18 years of age or older; or</p> <p>(b) has been determined to be a serious habitual offender for tracking under Section 63-92-2 and is under the continuing jurisdiction of the Juvenile Court or the Division of Juvenile Justice Services.</p> <p>(2) (a) Fingerprints may be taken of a minor 14 years of age or older who:</p> <p>(i) is taken into custody for the alleged commission of an offense that would be a felony if the minor were 18 years of age or older;</p> <p>(ii) has been determined to be a serious habitual offender for tracking under Section 63-92-2 and is under the continuing jurisdiction of the Juvenile Court or the Division of Juvenile Justice Services; or</p> <p>(iii) is required to provide a DNA specimen under Section 53-10-403.</p> <p>(b) Fingerprints shall be forwarded to the Bureau of Criminal Identification and may be stored by electronic medium.</p> <p>(3) HIV testing may be conducted on a minor who is taken into custody after having been adjudicated to have violated state law prohibiting a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, upon the request of the victim or the parent or guardian of a minor victim.</p> <p>(4) HIV tests, photographs, and fingerprints may not be taken of a minor younger than 14 years of age without the consent of the court.</p> <p>(5) (a) Photographs may be distributed or disbursed to individuals or agencies other than state or local law enforcement agencies only when a minor 14 years of age or older is charged with an offense which would be a felony if committed by an adult.</p> <p>(b) Fingerprints may be distributed or disbursed to individuals or agencies other than state or local law enforcement agencies.</p> <p>(6) When a minor's juvenile record is expunged, all photographs and other records as ordered shall upon court order be destroyed by the law enforcement agency. Fingerprint records may not be destroyed.</p> |
| § 78-29-101 | <p>Definitions</p> <p>For purposes of this chapter:</p> <p>(1) "Blood or contaminated body fluids" includes blood, amniotic fluid, pericardial fluid, peritoneal fluid, pleural fluid, synovial fluid, cerebrospinal fluid, semen, and vaginal secretions, and any body fluid visibly contaminated with blood.</p> |

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| | <p>(2) "Disease" means Human Immunodeficiency Virus infection, acute or chronic Hepatitis B infection, Hepatitis C infection, and any other infectious disease specifically designated by the Labor Commission in consultation with the Department of Health for the purposes of this chapter.</p> <p>(3) "Emergency medical services provider" means an individual certified under Section 26-8a-302, a public safety officer, local fire department personnel, or personnel employed by the Department of Corrections or by a county jail, who provide prehospital emergency medical care for an emergency medical services provider either as an employee or as a volunteer.</p> <p>(4) "First aid volunteer" means a person who provides voluntary emergency assistance or first aid medical care to an injured person prior to the arrival of an emergency medical services provider or public safety officer.</p> <p>(5) "Public safety officer" means a peace officer as defined in Title 53, Chapter 13, Peace Officer Classifications.</p> <p>(6) "Significant exposure" and "significantly exposed" mean:</p> <ul style="list-style-type: none">(a) exposure of the body of one person to the blood or body fluids of another person by:<ul style="list-style-type: none">(i) percutaneous injury, including a needle stick or cut with a sharp object or instrument; or(ii) contact with an open wound, mucous membrane, or nonintact skin because of a cut, abrasion, dermatitis, or other damage; or(b) exposure that occurs by any other method of transmission defined by the Department of Health as a significant exposure. |

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| Utah Administrative Rules - Titles R380-R444: Health |
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| R386-702-3 | <p>Reportable Diseases, Emergency Illnesses, and Health Conditions.</p> <p>(1) The Utah Department of Health declares the following conditions to be of concern to the public health and reportable as required or authorized by Section 26-6-6 and Title 26, Chapter 23b of the Utah Health Code.</p> <p>(hh) Human Immunodeficiency Virus Infection. Reporting requirements are listed in R388-803</p> |
| R388-801-2 | <p>Definitions.</p> <ol style="list-style-type: none"> 1. "Department" means the Utah Department of Health. 2. "Designated agent" means a person or persons designated by an agency employing or utilizing emergency medical services providers as employees or volunteers to receive and distribute test results in accordance with this rule. 3. "Disease" means Acquired Immunodeficiency Syndrome, Human Immunodeficiency Virus (HIV) infection, or Hepatitis B antigen positivity. 4. "Emergency medical services (EMS) agency" means an agency, entity or organization that employs or utilizes emergency medical services providers as employees or volunteers. 5. "Emergency medical services provider" means Emergency Medical personnel as defined in Section 26- 8a-102, a peace officer as defined in Section 53-13-101, local fire department personnel, or officials or personnel employed by the Department of Corrections or by a county jail, who provide prehospital emergency medical care for an emergency medical services agency either as an employee or as a volunteer. 6. "Patient" means any individual cared for by an emergency medical services provider, including but not limited to victims of accidents or injury, deceased persons, and prisoners or persons in the custody of the Department of Corrections. 7. "Receiving facility" means a hospital, health care or other facility where the patient is delivered by the emergency medical services provider for care. 8. "Significant exposure" means: <ol style="list-style-type: none"> 8.1. Contact of an emergency medical services provider's broken skin or mucous membrane with a patient's blood or bodily fluids other than tears or perspiration, or; 8.2. That a needle stick, or scalpel or instrument wound has occurred to the emergency medical services provider in the process of caring for a patient. |

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| R388-801-3 | <p data-bbox="418 237 1206 268">Emergency Medical Services Provider Responsibility.</p> <p data-bbox="418 300 1419 394">1. The EMS provider shall document and report all significant exposures to the receiving facility, the designated agent, and the department. The reporting process is as follows:</p> <p data-bbox="418 426 1435 720">1.1. The exposed EMS provider shall complete the department Exposure Report Form (ERF) at the time the patient is delivered and provide a copy to a person at the receiving facility authorized by the facility to receive that form. In the event that the exposed EMS provider does not accompany the patient to the receiving facility, he may report the exposure incident, with information requested on the ERF, by telephone to a person authorized by the facility to receive that form. In this event, the exposed EMS provider shall nevertheless submit a written copy of the ERF within three days to an authorized person of the receiving facility.</p> <p data-bbox="418 751 1435 846">1.2. The exposed EMS provider shall, within three days of the incident, also submit copies of the ERF to the designated agent and, by registered mail or in person, to the department.</p> <p data-bbox="418 877 1419 972">1.3. The exposed EMS provider should retain a copy of the ERF for his own records, in the event that it is subsequently necessary to file a workers' compensation claim under Sections 26-6a-10 through 26-6a-14.</p> |
| R388-801-4 | <p data-bbox="418 1014 906 1045">Receiving Facility Responsibility.</p> <p data-bbox="418 1077 1419 1329">1. The receiving facility shall establish a system to receive ERFs as well as telephoned reports from exposed EMS providers on a 24-hour per day basis. The facility shall also have available, within the receiving facility or on call, trained pre-test counselors for the purpose of obtaining consent and counseling of patients when HIV testing has been requested by EMS providers. The counselor shall contact the patient prior to release from the facility, or if the patient remains in the facility, contact shall be made within 24 hours.</p> <p data-bbox="418 1360 1435 1780">2. Upon notification of exposure, the receiving facility shall request permission from the patient to draw a blood sample for HIV testing. In conjunction with this request, the patient must be advised of his right to refuse testing and be advised that if he refuses to be tested that fact will be forwarded to the department and the designated agent. Testing is authorized only when the patient, his next of kin or legal guardian consents to testing, with the exception that consent is not required from an individual who has been convicted of a crime and is in the custody or under the jurisdiction of the Department of Corrections, or if the patient is dead. If consent is denied, the receiving facility shall complete the ERF and send it to the department. If consent is received, the receiving facility shall draw a sample of the patient's blood and send it, along with the ERF, to the Utah Department of Health, Division of Laboratory Services for testing.</p> <p data-bbox="418 1812 1403 1896">3. The receiving facility shall arrange for Hepatitis B testing according to standard procedures and report the result to the designated agent at the EMS agency.</p> |

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| R388-801-6 | <p>Designated Agent Responsibility.</p> <ol style="list-style-type: none"> 1. The designated agent, upon receipt of an ERF from the EMS provider, shall review the details regarding the significant exposure and recommend appropriate measures, if any, considering the most recent Centers for Disease Control guidelines, to EMS agency management. 2. The designated agent, upon receipt of the HIV test result from the department, shall immediately report the result, by case number, not name, to the exposed EMS provider. 3. The designated agent, upon receipt of the Hepatitis B test result from the receiving facility, shall immediately report the result to the exposed EMS provider. 4. The designated agent, upon receipt of refusal of testing, shall report that refusal to the EMS provider. 5. The designated agent shall maintain confidential records in conformance with Section 26-6a-7. |
| R388-801-7 | <p>Department Responsibility.</p> <ol style="list-style-type: none"> 1. The department shall designate a representative or representatives in the Utah Department of Health, Division of Laboratory Services who shall receive the HIV blood sample with a copy of the ERF, conduct the test and report the test result to the Bureau of HIV/AIDS Prevention and Control, and return the copy of the ERF to the Bureau of HIV/AIDS Prevention and Control. 2. The department shall designate a representative(s) in the Bureau of HIV/AIDS Prevention and Control who shall: <ol style="list-style-type: none"> 2.1. Receive and process copies of all ERF's submitted by the EMS provider or receiving facility to the department; 2.2. Report refusals to test or the results of HIV testing, by case number, not name, to the designated agent; and 2.3. Report HIV test results to the patient and complete all post test counseling required by Chapter 6a, Title 26. 3. The department shall assess to the EMS agency with which the EMS provider is affiliated the actual cost of testing and post test counseling of the patient. 4. The department shall develop and make available a pre-test counseling protocol to all receiving facilities. |
| R388-802-4 | <p>Anti-discrimination.</p> <ol style="list-style-type: none"> 1. In the school setting, no person shall be discriminated against, or denied activities or associations, based solely upon a diagnosis of HIV infection except as permitted under this rule. |

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| R388-802-5 | <p>Requirements for Determining if a Student or Employee Infected with HIV Should Remain in the Regular Classroom or Job Assignment.</p> <ol style="list-style-type: none"> 1. Upon notification that a student or employee has been diagnosed with HIV infection, the school administrator shall convene a review committee. 2. A student or employee infected with HIV shall continue in his regular classroom or job assignment until a review committee can meet and formulate recommendations. 3. The committee shall review all pertinent information including current findings and recommendations of the United States Public Health Service, the American Academy of Pediatrics, and the Utah Department of Health; apply that information to the subject and the nature of activities and associations in which the subject is involved with the school; and establish written findings of fact and recommendations based upon reasonable medical judgments and other information concerning the following: <ol style="list-style-type: none"> 3.1. The nature of the risk of transmission of HIV relevant to the activities of the subject in the school setting; 3.2. The probability of the risk, particularly the reasonable likelihood that HIV could be transmitted to other persons by the subject in the school setting; 3.3. The nature and the probability of any health related risks to the subject; 3.4. If restrictions are determined to be necessary, what accommodations could be made by the school to avoid excessive limitations on activities and associations of the subject. 4. The review committee shall forward its findings and recommendations to the superintendent. 5. The school administrator will implement the recommendations without delay. 6. The school administrator shall immediately advise the subject or, in the case of a minor, the subject's parents or guardian, in writing, of the decision of the review committee and that continued participation in the school setting may result in exposure to other communicable diseases. 7. The school administrator shall review the committee's decision on a regular basis and may reconvene the committee if, in his opinion, the facts of the case have changed. |
| R388-803-2 | Reporting of AIDS, HIV Infections, and Related Tests |

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| | <p>(1) A health care provider who administers or causes to have administered any of the following tests shall report all positive results to the Utah Department of Health or the local health department where the patient resides:</p> <ul style="list-style-type: none"> (a) presence of antibodies to HIV, repeatedly reactive on two or more tests; presence of antibodies to HIV that are verified by a positive confirmatory test; repeatedly reactive tests with indeterminate confirmatory tests. (b) presence of HIV antigen; (c) isolation of HIV; (d) demonstration of HIV proviral DNA; (e) demonstration of HIV specific nucleic acids; and (f) any other test or condition indicative of HIV infection. <p>(2) A health care provider who administers or causes to have administered any of the following tests shall report the results of each test to the Utah Department of Health or the local health department where the patient resides:</p> <ul style="list-style-type: none"> (a) CD4+ T-Lymphocyte tests; and (b) HIV viral load determination; <p>(3)(a) A laboratory that analyzes samples for any of the tests listed in subsection (1) shall report all positive results to the Utah Department of Health or the local health department where the patient resides, except that it need not report patient name if it does not have the name.</p> <p>(b) A laboratory that analyzes samples for any of the tests listed in subsection (2) shall report all results to the Utah Department of Health or the local health department where the patient resides, except that it need not report patient name if it does not have the name.</p> <p>(4) Reports shall include:</p> <ul style="list-style-type: none"> (a) patient name, if available; (b) patient number, if the name is not available; (c) date of birth; (d) date of test administration; (e) test result; and (f) name of the health care provider who ordered the test. <p>(5) Reports may be made in writing, by telephone, or by other electronic means acceptable to the Department.</p> |
| R388-803-3 | <p>Exemptions for Reporting of HIV Infection, AIDS and Related Tests.</p> <p>(1) A university or hospital that conducts research studies exempt from reporting AIDS and HIV infection under Section 26-6-3.5 shall submit the following to the Department:</p> <ul style="list-style-type: none"> (a) a summary of the research protocol; (b) written approval of the institutional review board; and (c) a letter showing funding sources and the justification for requiring anonymity. <p>(2) The university or hospital shall provide the Department a quarterly</p> |

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| | report indicating the number of HIV infected individuals enrolled in the study. |
| R388-803-4 | <p>Partner Identification and Notification</p> <p>(1) "Partner" is defined as any individual, including a spouse, who has shared needles, syringes, or drug paraphernalia or who has had sexual contact with an HIV infected individual. "Spouse" is defined as any individual who is the marriage partner of that person at any time within the ten-year period prior to the diagnosis of HIV infection.</p> <p>(2) If an individual is tested and found to have an HIV infection, the Utah Department of Health or local health department shall conduct partner notification activities.</p> |
| R590-132-3 | <p>Rule.</p> <p>A. Persons with HIV infection will not be singled out for either unfairly discriminatory or preferential treatment for insurance purposes.</p> <p>B. To properly classify risks related to covering prospective insureds, insurers may require reasonable testing. Application questions must conform to the following guidelines:</p> <ol style="list-style-type: none"> 1. No inquiry in an application for health or life insurance coverage, or in an investigation conducted by an insurer or an insurance support organization on its behalf in connection with an application for such coverage, shall be directed toward determining the applicant's sexual orientation. 2. Sexual orientation may not be used in the underwriting process or in the determination of insurability. <p>C. When used, the testing of insurance applicants must not be administered on an unfair basis. If a prospective insured is to be declined or rated substandard because of HIV infection, such action must be based on appropriate confirmatory tests.</p> <p>D. Notice and Consent. No person engaged in the business of insurance shall require an HIV test of an individual in connection with an application for insurance unless the individual signs a written release on a form which contains the following information:</p> <ol style="list-style-type: none"> 1. A statement of the purpose, content, use and meaning of the test. 2. A statement regarding disclosure of the test results, including information explaining the effect of releasing information to a person directly engaged in the business of insurance. The applicant should be advised that the insurer may disclose test results to others involved in the underwriting and claims review processes. If the HIV test is positive, the results will be reported by those conducting the test or providers receiving test results to the local health department. If the applicant does not designate a physician or other health care provider, the insurer shall report a positive test result to the local health department. If the insurer is a member of the Medical Information Bureau ("MIB, Inc.") the insurer may report the test results to MIB, Inc. in a generic code which signifies only |

| UAR | Code Language |
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| | <p>non-specific test abnormalities.</p> <p>3. A provision where the applicant directs that any positive screen results be reported to a designated health care professional of his/her choice for post-test counseling.</p> <p>For purposes of this section, insurers will use the following notice and consent disclosure form or a form that contains similar language. Such form is not considered part of the policy or policy application.</p> |