

AIDS, HIV and Other Contagious Disease Prevention

By

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Being a writing on AIDS and HIV prevention, discussing national and international infection control recommendations and how AIDS and HIV prevention is translated on state levels through mandated behaviors using Florida and Maryland law as examples. This writing includes a discussion on other disease prevention.

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PART 1: HIV/AIDS

Chapter 1:

Modes of Transmission

HIV is transmitted when a bodily fluid containing the virus enters the body; this can be through injection, an open cut or sore, or mucous membrane.¹ Such bodily fluids include blood, menstrual blood, semen, vaginal secretions and breast milk.² Fluids which have *not* been shown to include HIV are saliva, tears, sweat, feces and urine.³

3 Most Common Ways to Transfer HIV

- Contaminated needle
- Unprotected sex
- Mother to child

Activities which deliver the infected fluid to the body include injection with a needle contaminated with the virus.⁴ This can occur through sharing such a needle between users. In the early days of the AIDS crisis, the blood supply for transfusions was not checked.⁵ Thus, 90% of hemophiliacs have been

¹ San Francisco AIDS Foundation, *How HIV is Spread*, 2006, <http://www.sfaf.org/aids101/transmission.html#requirements>.

² San Francisco AIDS Foundation, *How HIV is Spread*, 2006, <http://www.sfaf.org/aids101/transmission.html#requirements>.

³ San Francisco AIDS Foundation, *How HIV is Spread*, 2006, <http://www.sfaf.org/aids101/transmission.html#requirements>.

⁴ San Francisco AIDS Foundation, *How HIV is Spread*, 2006, <http://www.sfaf.org/aids101/transmission.html#requirements>.

⁵ San Francisco AIDS Foundation, *How HIV is Spread*, 2006, <http://www.sfaf.org/aids101/transmission.html#requirements>.

infected with HIV.⁶ More than ten years ago, steps were taken to protect the blood supply available for transfusions and this is no longer a mechanism of transmission.⁷ Health workers can have accidents where they are pricked by a contaminated needle; the rate of infection in this scenario is quite low.⁸

Unprotected sex is another vehicle of HIV transmission into the body.⁹ This can include vaginal and anal sex.¹⁰ The receiving partner in both these situations may incur minute, unnoticed tears in mucous membranes.¹¹

Oral sex (specifically semen coming into contact with the oral cavity) is a less efficient mechanism because the membranes in the mouth are sturdier and the enzymes in saliva make the virus deteriorate.¹² There are no documented instances of the virus entering the body by vaginal oral sex.¹³

The third main avenue of HIV entering the body is mother to child. Formerly, this often occurred while the

⁶ San Francisco AIDS Foundation, *How HIV is Spread*, 2006, <http://www.sfaf.org/aids101/transmission.html#requirements>.

⁷ San Francisco AIDS Foundation, *How HIV is Spread*, 2006, <http://www.sfaf.org/aids101/transmission.html#requirements>.

⁸ San Francisco AIDS Foundation, *How HIV is Spread*, 2006, <http://www.sfaf.org/aids101/transmission.html#requirements>.

⁹ San Francisco AIDS Foundation, *How HIV is Spread*, 2006, <http://www.sfaf.org/aids101/transmission.html#requirements>.

¹⁰ San Francisco AIDS Foundation, *How HIV is Spread*, 2006, <http://www.sfaf.org/aids101/transmission.html#requirements>.

¹¹ San Francisco AIDS Foundation, *How HIV is Spread*, 2006, <http://www.sfaf.org/aids101/transmission.html#requirements>.

¹² San Francisco AIDS Foundation, *How HIV is Spread*, 2006, <http://www.sfaf.org/aids101/transmission.html#requirements>.

¹³ San Francisco AIDS Foundation, *How HIV is Spread*, 2006, <http://www.sfaf.org/aids101/transmission.html#requirements>.

baby was in the womb of an infected mother.¹⁴ Between 1992 and 2004 this method declined 95% as mothers tested and sought treatments which reduce the rate of transmission.¹⁵ Infected mothers who do not receive prenatal care are still liable to pass HIV to the unborn child.¹⁶ It is possible to pass the virus to the baby during breast feeding.¹⁷ The United Nations recommends that HIV-infected mothers avoid breast feeding or terminate it as soon as possible.¹⁸

There are a number of modalities, in addition to those mentioned above, which do not transmit HIV: insect bites, sharing dishes or food, swimming pools, hot tubs, and pets.¹⁹

¹⁴ San Francisco AIDS Foundation, *How HIV is Spread*, 2006, <http://www.sfaf.org/aids101/transmission.html#requirements>.

¹⁵ San Francisco AIDS Foundation, *How HIV is Spread*, 2006, <http://www.sfaf.org/aids101/transmission.html#requirements>.

¹⁶ San Francisco AIDS Foundation, *How HIV is Spread*, 2006, <http://www.sfaf.org/aids101/transmission.html#requirements>.

¹⁷ HIVandhepatitis.com, *Breastfeeding and Transmission of HIV*, 2004, <http://www.hivandhepatitis.com/recent/women/013004e.html>.

¹⁸ HIVandhepatitis.com, *Breastfeeding and Transmission of HIV*, 2004, <http://www.hivandhepatitis.com/recent/women/013004e.html>.

¹⁹ San Francisco AIDS Foundation, *How HIV is Spread*, 2006, <http://www.sfaf.org/aids101/transmission.html#requirements>.

Chapter 2:

Infection Control Procedures

The first rule of preventing the virus from entering the body is: don't. Don't share contaminated needles. Don't be pricked by a needle. Don't engage in unprotected sex. Don't breastfeed if you are infected.

3 Cornerstones to Infection Control

- Don't engage in dangerous behaviors
- Barriers
- Sterilization or disposal

The second rule of prevention is barriers. Gloves should be worn by any person with a risk of exposure to HIV-potential fluids.²⁰ Exposure might include open skin lesions on a patient/client or handling blood, items soiled by blood or other HIV-possible fluids.²¹ Gloves should be disposed of, hands washed and new gloves donned before a new client/patient is seen.²² Face masks and protective eyewear may be appropriate in certain circumstances.²³ If ungloved hands touch any

²⁰ J. Chetwynd, *Infection control procedures among New Zealand general practitioners: changes since the emergence of HIV infection*, 1990, *The British Journal of General Practice*, <http://www.pubmedcentral.nih.gov/articlerender.fcgi?artid=1371076>.

²¹ Wyoming Department of Health, *AIDS Infection Control Procedures*, 2001, http://72.14.253.104/search?q=cache:ThjkYGTZ-_QJ:wdh.state.wy.us/nursing/administrative%2520_manual.htm%252010-03/AIDS%2520Infection%2520Control.pdf+AIDS+infection+control+procedures&hl=en&gl=us&ct=clnk&cd=49.

²² American Dental Association, *Infection Control*, 1995-2006, http://www.ada.org/public/topics/infection_control_faq.asp.

²³ Dr. Dan Peterson, *How We Protect You at Each Dental Visit*, 2006, http://www.dentalgentlecare.com/infection_control.htm.

HIV-potential fluid, the hands should be immediately and thoroughly washed.²⁴

The third rule is sterilization or disposal. Instruments coming into contact with HIV-potential fluids should either be one-use and immediately disposed of with proper care after use or be sterilized after each use.²⁵ All surfaces and equipment in the room should be disinfected after each use; these include "...chairs, mirrors, counter tops, drawer handles, ...and light handles."²⁶ Disposable items and articles soiled with blood require special disposal such as that accorded infectious waste.²⁷ Used needles should be placed in a puncture-resistant container dedicated solely to this purpose.²⁸ Needles should not be bent or recapped first; the latter is a frequent cause of puncture injuries.²⁹

²⁴ Wyoming Department of Health, *AIDS Infection Control Procedures*, 2001, http://72.14.253.104/search?q=cache:ThjkYGTZ-_QJ:wdh.state.wy.us/nursing/administrative%2520_manual.htm%252010-03/AIDS%2520Infection%2520Control.pdf+AIDS+infection+control+procedures&hl=en&gl=us&ct=clnk&cd=49.

²⁵ J. Chetwynd, *Infection control procedures among New Zealand general practitioners: changes since the emergence of HIV infection*, 1990, *The British Journal of General Practice*, <http://www.pubmedcentral.nih.gov/articlerender.fcgi?artid=1371076>.

²⁶ Dr. Dan Peterson, *How We Protect You at Each Dental Visit*, 2006, http://www.dentalgentlecare.com/infection_control.htm.

²⁷ Wyoming Department of Health, *AIDS Infection Control Procedures*, 2001, http://72.14.253.104/search?q=cache:ThjkYGTZ-_QJ:wdh.state.wy.us/nursing/administrative%2520_manual.htm%252010-03/AIDS%2520Infection%2520Control.pdf+AIDS+infection+control+procedures&hl=en&gl=us&ct=clnk&cd=49.

²⁸ Wyoming Department of Health, *AIDS Infection Control Procedures*, 2001, http://72.14.253.104/search?q=cache:ThjkYGTZ-_QJ:wdh.state.wy.us/nursing/administrative%2520_manual.htm%252010-03/AIDS%2520Infection%2520Control.pdf+AIDS+infection+control+procedures&hl=en&gl=us&ct=clnk&cd=49.

²⁹ Wyoming Department of Health, *AIDS Infection Control Procedures*, 2001, http://72.14.253.104/search?q=cache:ThjkYGTZ-_QJ:wdh.state.wy.us/nursing/administrative%2520_manual.htm%252010-03/AIDS%2520Infection%2520Control.pdf+AIDS+infection+control+procedures&hl=en&gl=us&ct=clnk&cd=49.

Blood spills require prompt cleaning with sodium hypochlorite or other disinfectant solution.³⁰

Breach of infection control procedures resulting in possible exposure to HIV optimally should be verified by rapid HIV testing of the source.³¹ Reevaluation of the situation should occur 72 hours after possible infection.³²

If infection is indicated, the infectee should receive a four week regimen of antiretroviral agents.³³ This course should begin within hours of possible infection.³⁴ Many persons do not complete the full term of the drugs, some because of substantial side effects.³⁵ A quarter of the patients experienced nausea and a fifth reported fatigue.³⁶ Administering this regimen during pregnancy is an additional concern.³⁷ Optimally, the primary physician should consult with one experienced in infectious diseases and/or antiretroviral agents but regime initiation should not be delayed to do so.³⁸

³⁰ Wyoming Department of Health, *AIDS Infection Control Procedures*, 2001, http://72.14.253.104/search?q=cache:ThjkYGTZ-_QJ:wdh.state.wy.us/nursing/administrative%2520_manual.htm%252010-03/AIDS%2520Infection%2520Control.pdf+AIDS+infection+control+procedures&hl=en&gl=us&ct=clnk&cd=49.

³¹ Adelisa L. Panlilio, MD and others, *Infection Control*, 2005, National Center for Infectious Diseases, http://www.hivdent.org/infctl/ic_UUPH1005.htm.

³² Adelisa L. Panlilio, MD and others, *Infection Control*, 2005, National Center for Infectious Diseases, http://www.hivdent.org/infctl/ic_UUPH1005.htm.

³³ Adelisa L. Panlilio, MD and others, *Infection Control*, 2005, National Center for Infectious Diseases, http://www.hivdent.org/infctl/ic_UUPH1005.htm.

³⁴ Adelisa L. Panlilio, MD and others, *Infection Control*, 2005, National Center for Infectious Diseases, http://www.hivdent.org/infctl/ic_UUPH1005.htm.

³⁵ Adelisa L. Panlilio, MD and others, *Infection Control*, 2005, National Center for Infectious Diseases, http://www.hivdent.org/infctl/ic_UUPH1005.htm.

³⁶ Adelisa L. Panlilio, MD and others, *Infection Control*, 2005, National Center for Infectious Diseases, http://www.hivdent.org/infctl/ic_UUPH1005.htm.

³⁷ Adelisa L. Panlilio, MD and others, *Infection Control*, 2005, National Center for Infectious Diseases, http://www.hivdent.org/infctl/ic_UUPH1005.htm.

³⁸ Adelisa L. Panlilio, MD and others, *Infection Control*, 2005, National Center for Infectious Diseases, http://www.hivdent.org/infctl/ic_UUPH1005.htm.

Along with the antiretroviral course (and even if it is refused), the infectee should be offered counseling and evaluation.³⁹ Follow up testing should occur at 6 weeks, 12 weeks and 24 weeks.⁴⁰

If the regimen is accepted, the infectee should be reviewed for drug toxicity at 2 weeks after possible infection.⁴¹

³⁹ Adelisa L. Panlilio, MD and others, *Infection Control*, 2005, National Center for Infectious Diseases, http://www.hivdent.org/infctl/ic_UUPH1005.htm.

⁴⁰ Adelisa L. Panlilio, MD and others, *Infection Control*, 2005, National Center for Infectious Diseases, http://www.hivdent.org/infctl/ic_UUPH1005.htm.

⁴¹ Adelisa L. Panlilio, MD and others, *Infection Control*, 2005, National Center for Infectious Diseases, http://www.hivdent.org/infctl/ic_UUPH1005.htm.

Chapter 3:

Clinical Management

Clinical management includes infection control procedures, discussed in Chapter 2, to prevent direct contact with HIV-possible fluids.⁴² Used needles should be placed in puncture-resistant containers located at the point of use.⁴³ Used needles should not be manipulated or re-sheathed. (Needle-stick injury is the primary cause of occupational HIV infection so especial care should be exercised.⁴⁴) Hand washing and barriers such as gloves, masks, goggles and face shields, as appropriate to the situation, are important components of control.⁴⁵

3 Stages of Clinical Management

- Investigation
- Classification
- Treatment Plan

Clinical management begins with the taking of an initial history, the initial physical examination, appropriate lab tests, confirmation of HIV infection, and the establishment of a staging classification using the

⁴² United Nations Development Programme, *Clinical Management*, 2006, <http://www.youandaids.org/themes/ClinicalManagement.asp>.

⁴³ United Nations Development Programme, *Clinical Management*, 2006, <http://www.youandaids.org/themes/ClinicalManagement.asp>.

⁴⁴ United Nations Development Programme, *Clinical Management*, 2006, <http://www.youandaids.org/themes/ClinicalManagement.asp>.

⁴⁵ United Nations Development Programme, *Clinical Management*, 2006, <http://www.youandaids.org/themes/ClinicalManagement.asp>.

CDC or WHO models.⁴⁶ Staging may be used to determine eligibility for treatment with antiretroviral drugs.⁴⁷

Two major classification systems for HIV are in use: the U.S. Centers for Disease Control and Prevention (CDC) classification system (1993) and the World Health Organization (WHO) Clinical Staging and Disease Classification System (2005).⁴⁸ The CDC relies on CD4 counts while the WHO concentrates on clinical manifestations.⁴⁹

The continuation of clinical management includes formulating a service plan, implementing the plan, coordinating, monitoring, follow up, reassessment, conferencing, crisis intervention and, eventually, case closure.⁵⁰

The service plan may embrace a variety of disciplines to optimize care, including nursing, counseling, social support,⁵¹ and client education.⁵²

Clinical case management is not a top-down procedure. The decisions do not flow from up above

⁴⁶ AIDS Education and Training Centers National Resource Center, *Clinical Manual for Management of the HIV-Infected Adult*, 2006, http://www.aids-ed.org/aetc/aetc?page=cm-105_disease#S1X.

⁴⁷ AIDS Education and Training Centers National Resource Center, *Clinical Manual for Management of the HIV-Infected Adult*, 2006, http://www.aids-ed.org/aetc/aetc?page=cm-105_disease#S1X.

⁴⁸ AIDS Education and Training Centers National Resource Center, *Clinical Manual for Management of the HIV-Infected Adult*, 2006, http://www.aids-ed.org/aetc/aetc?page=cm-105_disease#S1X.

⁴⁹ AIDS Education and Training Centers National Resource Center, *Clinical Manual for Management of the HIV-Infected Adult*, 2006, http://www.aids-ed.org/aetc/aetc?page=cm-105_disease#S1X.

⁵⁰ Department of Health (New York), *Case Management Definitions*, 2006, <http://www.health.state.ny.us/diseases/aids/standards/casemanagement/definitions.htm>.

⁵¹ United Nations Development Programme, *Clinical Management*, 2006, <http://www.youandaids.org/themes/ClinicalManagement.asp>.

⁵² Department of Health (New York), *Case Management Definitions*, 2006, <http://www.health.state.ny.us/diseases/aids/standards/casemanagement/definitions.htm>.

with automatic acceptance from the client below, Rather, clinical case management should involve the consent and participation of the client.⁵³

Clinical case management can be divided into *comprehensive case management (CoCM)* and *supportive case management (SCM)*.⁵⁴ The comprehensive model is proactive, helping a client with complex needs, a long-term horizon and a commitment to assist in the process.⁵⁵ SCM addresses immediate, short-term needs, perhaps for a client who is not willing to put forth the level of participation required by CoCM or one who is finished with CoCM but still needs a maintenance level of care.⁵⁶ Repetitions of crises or problems in SCM should lead to encouragement of the client to enter CoCM.⁵⁷

⁵³ Department of Health (New York), *Case Management Definitions*, 2006, <http://www.health.state.ny.us/diseases/aids/standards/casemanagement/definitions.htm>.

⁵⁴ Department of Health (New York), *Case Management Definitions*, 2006, <http://www.health.state.ny.us/diseases/aids/standards/casemanagement/definitions.htm>

⁵⁵ Department of Health (New York), *Case Management Definitions*, 2006, <http://www.health.state.ny.us/diseases/aids/standards/casemanagement/definitions.htm>

⁵⁶ Department of Health (New York), *Case Management Definitions*, 2006, <http://www.health.state.ny.us/diseases/aids/standards/casemanagement/definitions.htm>

⁵⁷ Department of Health (New York), *Case Management Definitions*, 2006, <http://www.health.state.ny.us/diseases/aids/standards/casemanagement/definitions.htm>

Chapter 4:

Preventing HIV/AIDS Through Behavior and Attitude

Prevention of HIV may start early. Each district school board in Florida is authorized by law to offer age-appropriate education on the subject, emphasizing sexual abstinence as the way to avoid problems.⁵⁸ State Universities and community college must develop “comprehensive” policies for instruction on HIV and AIDS, including education on the subject during freshman orientation and information in the student handbook.⁵⁹

This emphasis on education is carried out in Florida’s mandate that 22 professions (including doctors⁶⁰ and massage therapists) complete a course on HIV and AIDS as a condition of licensure or re-licensure.⁶¹ A similar course is required for employees of various care facilities.⁶² Additionally, the law directs that a program be established to educate the public, including minority populations, about methods of transmission and prevention, distinguishing between the different risks of transmission in social, employment and

⁵⁸ Tulane University Law School, *Florida*, undated, http://www.law.tulane.edu/tuexp/journals/law_sex/aids/florida.htm. Parents can opt their child out of an HIV/AIDS program.

⁵⁹ Tulane University Law School, *Florida*, undated, http://www.law.tulane.edu/tuexp/journals/law_sex/aids/florida.htm.

⁶⁰ Doctors can replace the HIV course with one on end-of-life and palliative health care if they had the HIV/AIDS course in the previous renewal period. See Tulane University Law School, *Florida*, undated, http://www.law.tulane.edu/tuexp/journals/law_sex/aids/florida.htm.

⁶¹ Tulane University Law School, *Florida*, undated, http://www.law.tulane.edu/tuexp/journals/law_sex/aids/florida.htm.

⁶² Tulane University Law School, *Florida*, undated, http://www.law.tulane.edu/tuexp/journals/law_sex/aids/florida.htm.

educational settings.⁶³ The broad-based program also provides education to health workers and health facility employees, as well as making available consulting and information to state and local agencies and governments, and information to private employers.⁶⁴ The Departments of Education, Health, and of Business and Professional Regulation shall establish an interagency agreement to review AIDS education programs in the state.⁶⁵

Mandatory HIV education is required in HIV/AIDS for all staff and prisoners in Florida correctional facilities.⁶⁶

The state of Florida is concerned that HIV-risky behavior may be the result of behavior patterns, such as emotional disturbances, which lessen one's normal judgment.⁶⁷ The San Francisco AIDS Foundation has found a similar issue with black gay and bisexual men; "[t]hese men struggle not only with issues related to HIV, but also with racism, addiction, poverty, homophobia, violence, and marginal housing conditions."⁶⁸ Their idea is that drop in sessions weekly, workshops, social events, leadership training and community development can

⁶³ Tulane University Law School, *Florida*, undated, http://www.law.tulane.edu/tuexp/journals/law_sex/aids/florida.htm.

⁶⁴ Tulane University Law School, *Florida*, undated, http://www.law.tulane.edu/tuexp/journals/law_sex/aids/florida.htm.

⁶⁵ Tulane University Law School, *Florida*, undated, http://www.law.tulane.edu/tuexp/journals/law_sex/aids/florida.htm.

⁶⁶ Tulane University Law School, *Florida*, undated, http://www.law.tulane.edu/tuexp/journals/law_sex/aids/florida.htm.

⁶⁷ Tulane University Law School, *Florida*, undated, http://www.law.tulane.edu/tuexp/journals/law_sex/aids/florida.htm.

⁶⁸ San Francisco AIDS Foundation, *Black Brothers Esteem*, 2006, <http://www.sfaf.org/bbe/>.

improve the other problems and lead to a diminished risk-taking re HIV.

Maryland legislates a statewide public information program on AIDS (established by the Secretary of Health and Mental Hygiene) shall concentrate on individuals who at high risk for contracting the disease.⁶⁹ The Secretary shall also set up a program to train health professionals in the diagnosis, treatment and prevention of AIDS.⁷⁰

In Maryland, emergency workers (fire fighters, emergency medical technicians, rescue squad members), law enforcement officers and correctional officers shall receive training on how HIV is transmitted.⁷¹ Further, they shall receive appropriate equipment approved by the Centers for Disease Control to protect against possible transmission of the disease during their work.⁷²

Maryland also has two other approaches to changing behavior. Baltimore has initiated a needle exchange program where one may receive a sterile hypodermic needle and syringe when a used one of each is turned in.⁷³ The exchange site provides opportunities for HIV prevention education and drug

⁶⁹ Tulane University Law School, *Maryland* (undated), http://www.law.tulane.edu/tuexp/journals/law_sex/aids/maryland.htm.

⁷⁰ Tulane University Law School, *Maryland* (undated), http://www.law.tulane.edu/tuexp/journals/law_sex/aids/maryland.htm.

⁷¹ Tulane University Law School, *Maryland* (undated), http://www.law.tulane.edu/tuexp/journals/law_sex/aids/maryland.htm.

⁷² Tulane University Law School, *Maryland* (undated), http://www.law.tulane.edu/tuexp/journals/law_sex/aids/maryland.htm.

⁷³ Tulane University Law School, *Maryland* (undated), http://www.law.tulane.edu/tuexp/journals/law_sex/aids/maryland.htm.

counseling and treatment.⁷⁴ Secondly, the Maryland Secretary of Health and Mental Hygiene has the authority to ensure the quality and effectiveness of condoms sold in vending machines or by other automatic means.⁷⁵

⁷⁴ Tulane University Law School, *Maryland* (undated), http://www.law.tulane.edu/tuexp/journals/law_sex/aids/maryland.htm.

⁷⁵ Tulane University Law School, *Maryland* (undated), http://www.law.tulane.edu/tuexp/journals/law_sex/aids/maryland.htm.

PART 2: COMMUNICABLE DISEASES

Chapter 5:

Overview of Communicable Diseases

Infectious diseases are caused by “viruses, bacteria, parasites, fungi and other microbes.”⁷⁶ They are spread to a person by contact—directly from another human or animal, from contaminated food or water, from insects, or from a contaminated environment (ranging from animal droppings to air).⁷⁷

Antibiotics have not eliminated infectious diseases, which remain the leading cause of deaths globally.⁷⁸ Infectious diseases are one of the top ten causes of death in the United States (specifically HIV and pneumonia/influenza), accounting for 160,000 fatalities annually.⁷⁹ Their annual cost in treatment and lost productivity in the United States is estimated to exceed \$120 billion.⁸⁰ Even once “under control” diseases, such as tuberculosis, cholera, and diphtheria, are re-emerging.⁸¹ In addition, new diseases have arisen—30 in the last two decades.⁸²

⁷⁶ Directors of Health Promotion and Education, *Addressing Infectitious Disease Threats* (undated), http://www.dhpe.org/pubs_infectious.asp.

⁷⁷ Directors of Health Promotion and Education, *Addressing Infectitious Disease Threats* (undated), http://www.dhpe.org/pubs_infectious.asp.

⁷⁸ Directors of Health Promotion and Education, *Addressing Infectitious Disease Threats* (undated), http://www.dhpe.org/pubs_infectious.asp.

⁷⁹ Directors of Health Promotion and Education, *Addressing Infectitious Disease Threats* (undated), http://www.dhpe.org/pubs_infectious.asp.

⁸⁰ Directors of Health Promotion and Education, *Addressing Infectitious Disease Threats* (undated), http://www.dhpe.org/pubs_infectious.asp.

⁸¹ Directors of Health Promotion and Education, *Addressing Infectitious Disease Threats* (undated), http://www.dhpe.org/pubs_infectious.asp.

⁸² Directors of Health Promotion and Education, *Addressing Infectitious Disease Threats* (undated), http://www.dhpe.org/pubs_infectious.asp.

Surprisingly, however, much of this large problem can be prevented through methods which are easy and inexpensive:⁸³ washing hands, barriers, personal hygiene and environmental controls.

⁸³ Directors of Health Promotion and Education, *Addressing Infectious Disease Threats* (undated), http://www.dhpe.org/pubs_infectious.asp.

Chapter 6:

Prevention of Communicable Diseases

Washing Hands

Hand washing is “the single most effective technique for preventing the spread of communicable disease”⁸⁴ and should be done:

Wash Hands Before and After:

- Eating
- Handling food⁸⁵
- Drinking
- Smoking
- Handling another person’s medication or food
- Assisting another person with feeding or toileting
- Using the bathroom
- Protective clothing or equipment is used

Wash Hands Before:

- Handling clean equipment or utensils
- Handling contact lenses
- Using cosmetics
- Eating⁸⁶

⁸⁴ Maryland State Department of Education and others, *Management of Communicable Diseases In a School Setting* (2002), <http://www.marylandpublicschools.org/NR/rdonlyres/6561B955-9B4A-4924-90AE-F95662804D90/3284/CommunicableDiseaseFINAL.pdf%23search='maryland%2520department%2520of%2520health%2520and%2520mental%2520hygiene'>. The subsequent lists on when to wash hands are also from this source.

⁸⁵ Epidemiology & Disease Control Program (Maryland), *Preventing Infectious Diseases Fact Sheet* (2002) http://www.cha.state.md.us/edcp/pdf_factsheets/PREVENTING%20INFECTIOUS%20DISEASE.pdf.

⁸⁶ Epidemiology & Disease Control Program (Maryland), *Preventing Infectious Diseases Fact Sheet* (2002) http://www.cha.state.md.us/edcp/pdf_factsheets/PREVENTING%20INFECTIOUS%20DISEASE.pdf.

Wash Hands After:

- Contact with any bodily fluids (including blood, secretions, excretions)
- Caring for another person and before moving on to the next person
- Blowing nose, sneezing, or coughing⁸⁷
- Playing with or handling an animal⁸⁸

The proper way to wash hands includes:⁸⁹

- Removing jewelry
- Washing for 10 to 15 seconds
- Washing between the fingers and under the nails
- Thoroughly drying
- Turning faucets off *using paper towels*
- Washing jewelry with soap and water before putting on again

Barriers

Gloves must be worn if there is a chance that the wearer will encounter bodily fluids.⁹⁰ Vinyl gloves are recommended over latex ones because some people

⁸⁷ Epidemiology & Disease Control Program (Maryland), *Preventing Infectious Diseases Fact Sheet* (2002) http://www.cha.state.md.us/edcp/pdf_factsheets/PREVENTING%20INFECTIOUS%20DISEASE.pdf.

⁸⁸ Epidemiology & Disease Control Program (Maryland), *Preventing Infectious Diseases Fact Sheet* (2002) http://www.cha.state.md.us/edcp/pdf_factsheets/PREVENTING%20INFECTIOUS%20DISEASE.pdf.

⁸⁹ Maryland State Department of Education and others, *Management of Communicable Diseases In a School Setting* (2002), <http://www.marylandpublicschools.org/NR/rdonlyres/6561B955-9B4A-4924-90AE-F95662804D90/3284/CommunicableDiseaseFINAL.pdf%23search='maryland%2520department%2520of%2520health%2520and%2520mental%2520hygiene'>.

⁹⁰ Maryland State Department of Education and others, *Management of Communicable Diseases In a School Setting* (2002), <http://www.marylandpublicschools.org/NR/rdonlyres/6561B955-9B4A-4924-90AE-F95662804D90/3284/CommunicableDiseaseFINAL.pdf%23search='maryland%2520department%2520of%2520health%2520and%2520mental%2520hygiene'>.

have an allergy to latex.⁹¹ After use, gloves must be removed immediately. The touching of any non-contaminated item or environmental surface post-use must not occur.⁹²

Activities with the potential for splashing of bodily fluids call for the caregiver to wear a gown.⁹³ After use, the gown should be taken off immediately and stored safely for cleaning.⁹⁴

Personal Hygiene

On a more basic level, caregivers should take basic personal hygiene measures to fortify themselves against infection.⁹⁵ These include:⁹⁶

- Sufficient nutrition, rest and exercise

⁹¹ Maryland State Department of Education and others, *Management of Communicable Diseases In a School Setting* (2002), <http://www.marylandpublicschools.org/NR/rdonlyres/6561B955-9B4A-4924-90AE-F95662804D90/3284/CommunicableDiseaseFINAL.pdf%23search='maryland%2520department%2520of%2520health%2520and%2520mental%2520hygiene'>.

⁹² Maryland State Department of Education and others, *Management of Communicable Diseases In a School Setting* (2002), <http://www.marylandpublicschools.org/NR/rdonlyres/6561B955-9B4A-4924-90AE-F95662804D90/3284/CommunicableDiseaseFINAL.pdf%23search='maryland%2520department%2520of%2520health%2520and%2520mental%2520hygiene'>.

⁹³ Maryland State Department of Education and others, *Management of Communicable Diseases In a School Setting* (2002), <http://www.marylandpublicschools.org/NR/rdonlyres/6561B955-9B4A-4924-90AE-F95662804D90/3284/CommunicableDiseaseFINAL.pdf%23search='maryland%2520department%2520of%2520health%2520and%2520mental%2520hygiene'>.

⁹⁴ Maryland State Department of Education and others, *Management of Communicable Diseases In a School Setting* (2002), <http://www.marylandpublicschools.org/NR/rdonlyres/6561B955-9B4A-4924-90AE-F95662804D90/3284/CommunicableDiseaseFINAL.pdf%23search='maryland%2520department%2520of%2520health%2520and%2520mental%2520hygiene'>.

⁹⁵ Maryland State Department of Education and others, *Management of Communicable Diseases In a School Setting* (2002), <http://www.marylandpublicschools.org/NR/rdonlyres/6561B955-9B4A-4924-90AE-F95662804D90/3284/CommunicableDiseaseFINAL.pdf%23search='maryland%2520department%2520of%2520health%2520and%2520mental%2520hygiene'>.

⁹⁶ Maryland State Department of Education and others, *Management of Communicable Diseases In a School Setting* (2002), <http://www.marylandpublicschools.org/NR/rdonlyres/6561B955-9B4A-4924-90AE-F95662804D90/3284/CommunicableDiseaseFINAL.pdf%23search='maryland%2520department%2520of%2520health%2520and%2520mental%2520hygiene'>.

- Regular medical care including recommended immunizations⁹⁷
- Frequent hand washing
- Short and clean fingernails
- Avoiding mouthing objects shared with others
- Avoiding sharing personal items with others (example: lipstick, nail file)
- Avoiding touching or rubbing eyes
- Covering nose and mouth when coughing/sneezing; disposing of tissues appropriately
- Avoiding wearing jewelry at work
- Avoiding insect bites (using repellants and appropriate clothes)⁹⁸

Environmental Control Measures

Environmental control measures should be used to minimize the spread of disease.⁹⁹ These measures include:¹⁰⁰

- Storing clean clothing, supplies and equipment in areas separate from soiled items

⁹⁷ Epidemiology & Disease Control Program (Maryland), *Preventing Infectious Diseases Fact Sheet* (2002) http://www.cha.state.md.us/edcp/pdf_factsheets/PREVENTING%20INFECTIOUS%20DISEASE.pdf.

⁹⁸ Epidemiology & Disease Control Program (Maryland), *Preventing Infectious Diseases Fact Sheet* (2002) http://www.cha.state.md.us/edcp/pdf_factsheets/PREVENTING%20INFECTIOUS%20DISEASE.pdf.

⁹⁹ Maryland State Department of Education and others, *Management of Communicable Diseases In a School Setting* (2002), <http://www.marylandpublicschools.org/NR/rdonlyres/6561B955-9B4A-4924-90AE-F95662804D90/3284/CommunicableDiseaseFINAL.pdf%23search='maryland%2520department%2520of%2520health%2520and%2520mental%2520hygiene'>.

¹⁰⁰ Maryland State Department of Education and others, *Management of Communicable Diseases In a School Setting* (2002), <http://www.marylandpublicschools.org/NR/rdonlyres/6561B955-9B4A-4924-90AE-F95662804D90/3284/CommunicableDiseaseFINAL.pdf%23search='maryland%2520department%2520of%2520health%2520and%2520mental%2520hygiene'>.

- Storing food and handling food, first aid supplies and medications in areas separate from soiled items
- Placing soiled disposal items (gloves, paper towels, cover-up sheets, under-pads, etc.) in covered receptacles which use plastic bags. The bags should be sealed and discarded daily. The use of cloth laundry bags should be avoided.
- Routinely cleaning and disinfecting surfaces.¹⁰¹ Just soap and water eliminates dirt and most germs.¹⁰² Using a disinfectant will kill additional germs.¹⁰³ Don't forget to clean door knobs, light switches and the wall areas around toilets.¹⁰⁴
- Establishing a cleaning schedule
- Paying special attention to the cleanup of body fluid spills including blood

*Cleanup of Blood or Body Fluids*¹⁰⁵

- Secure the area so no one is contaminated and the spill is not spread.
- Use a commercially available spill clean up kit.
- Wear gloves during the cleanup (double gloves if picking up glass).
- Pour an absorbent material over the spill.
- Pick up material using a scoop.

¹⁰¹ Directors of Health Promotion and Education, *Addressing Infectious Disease Threats* (undated), http://www.dhpe.org/pubs_infectious.asp.

¹⁰² Directors of Health Promotion and Education, *Addressing Infectious Disease Threats* (undated), http://www.dhpe.org/pubs_infectious.asp.

¹⁰³ Directors of Health Promotion and Education, *Addressing Infectious Disease Threats* (undated), http://www.dhpe.org/pubs_infectious.asp.

¹⁰⁴ Fuglsang, Mark, *Wiping Out Germs: Tips for Cleaning and Disinfecting Environmental Surfaces* (2006), http://www.infectioncontrolday.com/articles/399/399_4a1Enviro.html.

¹⁰⁵ University of Illinois at Springfield, *Campus Blood Spills* (undated), http://www.uis.edu/facilityservices/body_fluid_spills.htm.

- Place glass in a special needle-disposal (sharps) container.
- Use an absorbent towel to wipe up blood.
- Apply a disinfectant to the area.
- Place all cleanup materials in a special red bag for incineration.

Reporting

A doctor or administrative head of an institution in Maryland who has reason to suspect that a patient under care has an infectious or contagious disease (other than AIDS) shall report this to the local health officer, including the patient's name.¹⁰⁶ The person's name shall be held as confidential by the local health officer.¹⁰⁷

¹⁰⁶ Tulane University Law School, *Maryland* (undated), http://www.law.tulane.edu/tuexp/journals/law_sex/aids/maryland.htm. See the discussion of Maryland law on AIDS for that disease's reporting requirements.

¹⁰⁷ Tulane University Law School, *Maryland* (undated), http://www.law.tulane.edu/tuexp/journals/law_sex/aids/maryland.htm.

PART 3: FLORIDA'S LAWS ON HIV/AIDS

Chapter 7:

HIV Testing

Confidentiality

The Legislature determined that making test results confidential would lead to more people testing for HIV.¹⁰⁸ Generally, a person may not disclose the identity of a person tested or the results of a HIV test. To do so can be a misdemeanor; if done maliciously or for gain, this can be a felony.

There are numerous exceptions, though, to the rule. These people can be told of a test and of the identity of the subject:

- The subject of the test
- The legally authorized representative of the subject
- Anyone the subject or the legally authorized representative authorizes in writing
- Anyone who has received significant exposure to the subject's HIV-possible fluids
- Employer of the significantly exposed person as necessary to file a worker's

¹⁰⁸ All information in this chapter, unless otherwise cited, is from Florida Statutes 2006, Chapter 381.004: http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=Ch0381/SEC004.HTM&Title=->2001->Ch0381->Section%20004#0381.004.

compensation claim or other disability claim¹⁰⁹

- The health care provider (positive preliminary test only; may be told identity and any test result if has need to know or when dealing with a human body part from a deceased person)
- The doctor caring for the subject
- Other doctors the doctor may need to consult to reach a diagnosis
- Health facility staff committees when conducting evaluation and review
- Those authorized by court order after a hearing demonstrating compelling need which cannot be otherwise met. (The subject has a right to participate in the hearing. This is not a public hearing unless the subject agrees otherwise or the court finds a public hearing is necessary in the public interest and for the proper administration of justice.)
- Department of Health¹¹⁰
- County health department (positive result only)
- Insurers
- Child agencies involved with test subject
- Adult custodian, adult relative or adult responsible for welfare of a child subject

¹⁰⁹ Tulane University Law School, *Florida*, undated, http://www.law.tulane.edu/tuexp/journals/law_sex/aids/florida.htm.

¹¹⁰ Cases involving positive results must be reported to the Department within 2 weeks. Tulane University Law School, *Florida*, undated, http://www.law.tulane.edu/tuexp/journals/law_sex/aids/florida.htm.

- Developmentally disabled agencies involved with test subject
- Sheriff or correctional officers responsible for the care of the subject if subject is an inmate¹¹¹

Disclosing test results must be accompanied by a written statement prohibiting further disclosure without the subject's specific written consent and noting a general authorization from the subject is not sufficient for re-disclosure of this information.¹¹²

Violating confidentiality provisions can be a misdemeanor. Disclosing maliciously or for monetary gain that a person has HIV or AIDS to a person not on the list of confidentiality exceptions may be a felony.

Consent

HIV testing in Florida generally requires the informed consent of the person being tested.¹¹³ Prior to consent, the subject must be told of the confidentiality of the subject's identity and of the test's results to the limits imposed by law, of the disclosure of positive results and the subject's identity to the county health department, and of the whereabouts and hours of anonymous testing sites. This consent need not be written or signed by the client but the medical record

¹¹¹ Tulane University Law School, *Florida*, undated, http://www.law.tulane.edu/tuexp/journals/law_sex/aids/florida.htm.

¹¹² Tulane University Law School, *Florida*, undated, http://www.law.tulane.edu/tuexp/journals/law_sex/aids/florida.htm.

¹¹³ All information in this chapter, unless otherwise cited, is from Florida Statutes 2006, Chapter 381:004 http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=Ch0381/SEC004.HTM&Title=->2001->Ch0381->Section%20004#0381.004.

must be noted that the explanations were given and consent received. Prior to the test, a post-test visit should be scheduled for discussing test results and for counseling.¹¹⁴

There are numerous exceptions to the general rule. In the following circumstances, a test subject does not need to give consent in order to have a HIV test administered:

- the subject is not competent to consent or a minor and has a legal guardian consent on subject's behalf
- in an emergency when the subject is unable to consent and the test is necessary for diagnosis
- the attending physician determines obtaining informed consent would be detrimental to the patient and the test is needed for the medical diagnosis of acute illness
- the subject is dead and the medical examiner is performing an autopsy
- the subject is dead and others had significant exposure to HIV-possible fluids while providing emergency medical assistance or care. Requires documentation by a licensed physician that significant exposure occurred and the test is necessary to determine a course of treatment. Such personnel must be tested themselves or provide a negative test taken within 6 months prior to the significant exposure.

¹¹⁴ Tulane University Law School, *Florida*, undated, http://www.law.tulane.edu/tuexp/journals/law_sex/aids/florida.htm.

- when federal law requires STD testing¹¹⁵
- donated blood, plasma, organ, skin and other human tissue in certain circumstances
- pregnant woman (though woman must be told of the test and of her right to refuse it)
- infant in hospital when parent cannot be reached and test is medically indicated
- subsequent testing of previously diagnosed HIV-positive subject to monitor clinical progress
- upon the request of a victim of sexual battery in which the subject is the perpetrator
- court order¹¹⁶
- epidemiological research
- when personnel have received significant exposure to HIV-possible fluids (if such personnel have a vial of voluntarily obtained blood from the subject and the subject cannot be found, the vial can be tested without the subject's consent. Reasonable, documented attempts must be made to locate the subject and obtain consent.) Such personnel must be tested themselves or provide a negative test taken within 6 months prior to the significant exposure.
- personnel providing emergency medical treatment to subject outside a hospital during which significant exposure to HIV-possible fluid occurs. Consent should be requested. A licensed physician must document there has been a significant exposure and that the test is

¹¹⁵ Tulane University Law School, *Florida*, undated, http://www.law.tulane.edu/tuexp/journals/law_sex/aids/florida.htm.

¹¹⁶ This may either be an order sought by others or, in the case of 15 specified crimes, one the court is required to issue. Tulane University Law School, *Florida*, undated, http://www.law.tulane.edu/tuexp/journals/law_sex/aids/florida.htm.

medically necessary to determine a course of treatment. Such personnel must be tested themselves or provide a negative test taken within 6 months prior to the significant exposure. The present test must be performed during the course of the medical emergency; outside of that time frame and if the subject will not consent, a court order for the test must be sought.

- if the subject has been convicted of prostitution or of procuring others to commit prostitution
- an inmate

Notification

The person ordering the test (or that person's designee) must make "all reasonable efforts" to tell the subject what the results of the test are. When the test results are positive, notification includes 3 things: information on medical and support services, the importance of notifying possibly-exposed partners, and preventing further transmission of HIV. Only the last item is necessary when the notification involves a negative test result.

In some circumstances, the subject may have departed the test venue before the results come back (hospital emergency room or detention facility, for example.) In that case, telling the county health department satisfies the notification requirement. A blood donor whose HIV test is positive shall be notified by certified letter; the chance to discuss this by phone

or in person is offered.¹¹⁷ If the person does not respond within 30 days, the actual test results and other required information are sent to the donor by certified mail.¹¹⁸

A practitioner regulated by the Division of Medical Quality Assurance of the Department of Health may (but is not required to) notify the subject's partner *without* the subject's consent if the following 4 conditions are met:

- the HIV-positive patient tells the practitioner the identity of the partner
- the practitioner recommends notification of the partner including advice to refrain from dangerous activity which might transmit the virus
- patient refuses notification
- practitioner informs patient the practitioner intends to notify the patient's partner

County Services

Each county shall provide these services:

- Voluntary, anonymous and confidential HIV testing program
- Counseling
- Notice of partner-notification services

County HIV testing programs must register with the

¹¹⁷ Tulane University Law School, *Florida*, undated, http://www.law.tulane.edu/tuexp/journals/law_sex/aids/florida.htm.

¹¹⁸ Tulane University Law School, *Florida*, undated, http://www.law.tulane.edu/tuexp/journals/law_sex/aids/florida.htm.

Department of Health and re-register annually. The directors must have AIDS/HIV counseling experience. The medical care must be supervised by a licensed physician. Laboratory procedures must be done in a licensed laboratory.

Pre-testing counseling must be offered at the testing program. The following points should then be covered: the meaning of a HIV test, medical indications for such a test, the possibility of false results (whether positive or negative), the possible need of a second (confirmatory) test, the possible impact (social, medical, economic) of a positive result, and the need to eliminate behavior which entails a high risk of contracting HIV.

Before any positive results are given to the patient, a confirmatory test must be provided.

Post-test, in-person counseling must be offered at the testing program. This should cover the same points as the pre-testing counseling except the possible false results issue may be omitted. This post-test counseling can only be offered by specially trained counselors, alert to the possibility of suicidal behavior and able to offer the patient referrals to further appropriate health and social services.

Chapter 8:

Discrimination¹¹⁹

No HIV test may be required for:

- Admission to any facility or to purchase any service or product which is licensed by the Agency of Health Care Administration, the Department of Health, or the Department of Business and Professional Regulation
- Hiring, promotion or continued employment (unless the absence of HIV is a bona fide occupational qualification for the job)
- Other employment decisions. (Employee status or discharge cannot be based upon a HIV test unless the absence of HIV is a bona fide occupational qualification for the job.)
- Life insurance¹²⁰
- Health insurance¹²¹
- Disability insurance

To prove that the absence of HIV is a bona fide occupational requirement for a job, the employer must demonstrate 2 things:

¹¹⁹ All information in this chapter, unless otherwise cited, is from Florida Statutes 2006, Chapter 381:004 http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=Ch0381/SEC004.HTM&Title=->2001->Ch0381->Section%20004#0381.004.

¹²⁰ Coverage however can be disclaimed in a preexisting conditions clause and if AIDS manifests within the first year of coverage and the insurer meets certain conditions. Tulane University Law School, *Florida*, undated, http://www.law.tulane.edu/tuexp/journals/law_sex/aids/florida.htm.

¹²¹ Policies cannot exclude coverage for HIV/AIDS and cannot limit benefits for HIV/AIDS differently from other medical conditions. Coverage can be limited or excluded in a preexisting condition clause. Tulane University Law School, *Florida*, undated, http://www.law.tulane.edu/tuexp/journals/law_sex/aids/florida.htm.

- The HIV test is necessary either to determine if the employee can reasonably perform the job's duties or to determine if an employee will present a significant risk of passing HIV to other persons in the course of normal work, *and*
- There exists no way to reasonably accommodate a HIV-positive person in the job.

A person who has HIV may not be discriminated against (if otherwise qualified) in:

- Housing
- Public accommodations
- Governmental services

A licensed health care professional or health worker who treats or provides care to HIV-positive persons cannot be discriminated against in employment issues because of those patients.

A person discriminated against in violation of these laws may sue for \$1,000 or the actual damages suffered (whichever is greater) for each occurrence. If the discrimination was intentional or reckless, the thousand dollars becomes \$5,000. Additionally, the victim may recover reasonable attorney's fees and other relief the court deems appropriate.

A parent or grandparent's shared parental responsibility, custody or visitation rights cannot be denied by a court solely because of the parent's or

grandparent's HIV status.¹²² The court can however issue conditions designed to prevent the transmission of HIV to the child.¹²³

¹²² Tulane University Law School, *Florida*, undated, http://www.law.tulane.edu/tuexp/journals/law_sex/aids/florida.htm.

¹²³ Tulane University Law School, *Florida*, undated, http://www.law.tulane.edu/tuexp/journals/law_sex/aids/florida.htm.

Chapter 9:

Criminal Law

It is a crime in Florida for a person who has HIV and knows it to:

- donate “blood, plasma, skin, organ, or other human tissue donation” if the person has been informed such donations may transmit the disease; this is a felony.¹²⁴ (Any person who fails to test that which is destined for a transfusion or transplant is guilty of a misdemeanor.)¹²⁵
- have sexual intercourse with another person if the subject person has been informed sexual activity may transmit the disease, *unless* the sexual partner is informed the subject person is HIV-positive and consents to the sexual intercourse.¹²⁶

There are 14 crimes (including prostitution) which if a HIV-positive person is convicted of committing a second (or subsequent) time will also make that person guilty of criminal transmission of HIV.¹²⁷ Actual infection need not occur.¹²⁸ This may also trigger a term of “community quarantine community control” imposed

¹²⁴ Tulane University Law School, *Florida*, undated, http://www.law.tulane.edu/tuexp/journals/law_sex/aids/florida.htm.

¹²⁵ Tulane University Law School, *Florida*, undated, http://www.law.tulane.edu/tuexp/journals/law_sex/aids/florida.htm.

¹²⁶ Tulane University Law School, *Florida*, undated, http://www.law.tulane.edu/tuexp/journals/law_sex/aids/florida.htm.

¹²⁷ Tulane University Law School, *Florida*, undated, http://www.law.tulane.edu/tuexp/journals/law_sex/aids/florida.htm.

¹²⁸ Tulane University Law School, *Florida*, undated, http://www.law.tulane.edu/tuexp/journals/law_sex/aids/florida.htm.

by the court.¹²⁹ A HIV-positive person who commits prostitution (or offers to commit) or who procures another to commit has also committed criminal transmission of HIV, a felony.¹³⁰

The Department of Health can petition the court to order a person to be isolated from the general public if it is probable that otherwise the person would spread HIV/AIDS, such quarantine continuing until the likelihood of danger to the public health ceases or becomes insignificant.¹³¹ The Department may ask for detention of the person before a hearing can be held; the detainee has the right to a bail hearing within 24 hours and to habeas corpus.¹³²

Violating the laws about confidentiality is a misdemeanor.¹³³

¹²⁹ Tulane University Law School, *Florida*, undated, http://www.law.tulane.edu/tuexp/journals/law_sex/aids/florida.htm.

¹³⁰ Tulane University Law School, *Florida*, undated, http://www.law.tulane.edu/tuexp/journals/law_sex/aids/florida.htm.

¹³¹ The provision also extends to other sexually transmitted diseases. Tulane University Law School, *Florida*, undated, http://www.law.tulane.edu/tuexp/journals/law_sex/aids/florida.htm.

¹³² Tulane University Law School, *Florida*, undated, http://www.law.tulane.edu/tuexp/journals/law_sex/aids/florida.htm. Habeas corpus is a writ to bring a body before a court (<http://dictionary.lp.findlaw.com/scripts/results.pl?co=dictionary.lp.findlaw.com&topic=c7/c736ec69ca3865c3b7570506257bd98f>).

¹³³ Tulane University Law School, *Florida*, undated, http://www.law.tulane.edu/tuexp/journals/law_sex/aids/florida.htm.

PART 4: MARYLAND'S LAWS ON HIV/AIDS

Chapter 10:

Confidentiality and Consent

Confidentiality

HIV testing is generally confidential in Maryland.¹³⁴ However, doctors, hospitals and laboratories are required to report positive test results to the county health department.¹³⁵ Results may be published in summaries which do not disclose the testees' names.¹³⁶

Consent

A competent adult can consent to a HIV test in Maryland, which also allows a child who can understand the counseling to permit such a test.¹³⁷ Otherwise, a person legally designated to make medical decisions for the person to be tested can consent to the test.¹³⁸

Certain individuals are to be notified within 48 hours of a positive test revealing HIV or other

¹³⁴ Family Service Foundation, *Maryland Law* (1998-2000), <http://www.deafvision.net/dap/resources/law.htm>.

¹³⁵ Family Service Foundation, *Maryland Law* (1998-2000), <http://www.deafvision.net/dap/resources/law.htm>; Tulane University Law School, *Maryland* (undated), http://www.law.tulane.edu/tuexp/journals/law_sex/aids/maryland.htm.

¹³⁶ Tulane University Law School, *Maryland* (undated), http://www.law.tulane.edu/tuexp/journals/law_sex/aids/maryland.htm.

¹³⁷ Family Service Foundation, *Maryland Law* (1998-2000), <http://www.deafvision.net/dap/resources/law.htm>.

¹³⁸ Family Service Foundation, *Maryland Law* (1998-2000), <http://www.deafvision.net/dap/resources/law.htm>.

contagious disease of someone they dealt with.¹³⁹ These include emergency workers, law enforcement officers and correctional officers.¹⁴⁰ The notification does not require the consent of the testee though it keeps the name of both the testee and the person notified confidential.¹⁴¹

A blood donor must be informed the blood taken will be tested for HIV and that positive results will be reported to the Health Department.¹⁴² The donor must provide written consent to such testing and reporting.¹⁴³

Before taking blood for a HIV test, a health care provider must provide counseling and obtain the patient's written consent.¹⁴⁴ A health care provider must present a pregnant woman with counseling regarding HIV testing, including that the woman must consent in order for a test to occur and that prenatal care will still be provided if the test is refused.¹⁴⁵ This counseling will include how, given a positive result, HIV may be transmitted to the fetus and ways to reduce that risk.

If a health care provider is exposed to HIV-possible fluid, the provider may request that a doctor, nurse or

¹³⁹ Tulane University Law School, *Maryland* (undated), http://www.law.tulane.edu/tuexp/journals/law_sex/aids/maryland.htm.

¹⁴⁰ Tulane University Law School, *Maryland* (undated), http://www.law.tulane.edu/tuexp/journals/law_sex/aids/maryland.htm.

¹⁴¹ Tulane University Law School, *Maryland* (undated), http://www.law.tulane.edu/tuexp/journals/law_sex/aids/maryland.htm.

¹⁴² Tulane University Law School, *Maryland* (undated), http://www.law.tulane.edu/tuexp/journals/law_sex/aids/maryland.htm.

¹⁴³ Tulane University Law School, *Maryland* (undated), http://www.law.tulane.edu/tuexp/journals/law_sex/aids/maryland.htm.

¹⁴⁴ Tulane University Law School, *Maryland* (undated), http://www.law.tulane.edu/tuexp/journals/law_sex/aids/maryland.htm.

¹⁴⁵ Tulane University Law School, *Maryland* (undated), http://www.law.tulane.edu/tuexp/journals/law_sex/aids/maryland.htm.

person designated by the health care facility ask the patient for consent to take a HIV test.¹⁴⁶ In order for this to occur, the exposed employee must provide written notice of the exposure to the facility's CEO or the CEO's designee and have the exposure confirmed by another person who is a physician.¹⁴⁷ Further, the exposed employee must give written consent and submit to a HIV test.¹⁴⁸ A person authorized to make medical decisions for the patient who is the potential source of HIV may provide the consent.¹⁴⁹ Counseling will be offered in the event of a positive test for either person.¹⁵⁰ The HIV test shall not be recorded in either person's file but rather in a separate confidential file.¹⁵¹

An inmate can be required (without the inmate's consent) to give a blood sample for a HIV test when the inmate was found guilty of violating an institutional rule during which a correctional employee was exposed to HIV-potential fluid.¹⁵² The employee must give written notice of the exposure to the warden or other managing official of the institution and the

¹⁴⁶ Tulane University Law School, *Maryland* (undated), http://www.law.tulane.edu/tuexp/journals/law_sex/aids/maryland.htm.

¹⁴⁷ Tulane University Law School, *Maryland* (undated), http://www.law.tulane.edu/tuexp/journals/law_sex/aids/maryland.htm.

¹⁴⁸ Tulane University Law School, *Maryland* (undated), http://www.law.tulane.edu/tuexp/journals/law_sex/aids/maryland.htm.

¹⁴⁹ Tulane University Law School, *Maryland* (undated), http://www.law.tulane.edu/tuexp/journals/law_sex/aids/maryland.htm.

¹⁵⁰ Tulane University Law School, *Maryland* (undated), http://www.law.tulane.edu/tuexp/journals/law_sex/aids/maryland.htm.

¹⁵¹ Tulane University Law School, *Maryland* (undated), http://www.law.tulane.edu/tuexp/journals/law_sex/aids/maryland.htm.

¹⁵² Tulane University Law School, *Maryland* (undated), http://www.law.tulane.edu/tuexp/journals/law_sex/aids/maryland.htm.

exposure must be confirmed by a health care provider.¹⁵³

A negative HIV test result is required for a license to engage in a contest as a boxer or kick boxer.¹⁵⁴

¹⁵³ Tulane University Law School, *Maryland* (undated), http://www.law.tulane.edu/tuexp/journals/law_sex/aids/maryland.htm.

¹⁵⁴ Tulane University Law School, *Maryland* (undated), http://www.law.tulane.edu/tuexp/journals/law_sex/aids/maryland.htm.

Chapter 11:

Notification, Discrimination, State Programs, Criminal Law

Notification

Notification of test results in Maryland must be provided to the testee.¹⁵⁵ A blood donor whose blood was tested for HIV must be notified of a positive result.¹⁵⁶

Partner notification is the responsibility of the HIV positive testee, though assistance may be requested of partner notification programs.¹⁵⁷ Upon the testee's refusal to notify a partner, the physician who gave post-test counseling may, but is not required to, notify county health department.¹⁵⁸ If it is notified, the county health department must attempt to locate the testee's partners and provide information about appropriate resources but without revealing the testee's identity.¹⁵⁹

Discrimination

Discrimination is prohibited by licensed health care professionals, and in housing, employment, public

¹⁵⁵ Family Service Foundation, *Maryland Law* (1998-2000), <http://www.deafvision.net/dap/resources/law.htm>.

¹⁵⁶ Family Service Foundation, *Maryland Law* (1998-2000), <http://www.deafvision.net/dap/resources/law.htm>.

¹⁵⁷ Family Service Foundation, *Maryland Law* (1998-2000), <http://www.deafvision.net/dap/resources/law.htm>.

¹⁵⁸ Family Service Foundation, *Maryland Law* (1998-2000), <http://www.deafvision.net/dap/resources/law.htm>.

¹⁵⁹ Family Service Foundation, *Maryland Law* (1998-2000), <http://www.deafvision.net/dap/resources/law.htm>.

accommodations and government services.¹⁶⁰ Emergency workers, law enforcement officers and correctional officers cannot refuse to treat or transport a deceased person because of the decedent's positive HIV status.¹⁶¹

Members of 24 professions (including massage therapists) can be disciplined or have their licenses revoked for denying professional services to or discriminating against a HIV positive individual.¹⁶² However, a professional is only required to provide professional services which the professional is qualified to render.¹⁶³ An action which is outside the scope of the profession need not be performed. For example, at a certain state AIDS patients may have open sores.¹⁶⁴ It is generally agreed in the massage industry that open sores are a contraindication for massage, i.e., that massage should not be performed while open sores are present.¹⁶⁵ It would not be discrimination to practice professional strictures and not massage a person who had open sores.

¹⁶⁰ Family Service Foundation, *Maryland Law* (1998-2000), <http://www.deafvision.net/dap/resources/law.htm>.

¹⁶¹ Tulane University Law School, *Maryland* (undated), http://www.law.tulane.edu/tuexp/journals/law_sex/aids/maryland.htm.

¹⁶² Tulane University Law School, *Maryland* (undated), http://www.law.tulane.edu/tuexp/journals/law_sex/aids/maryland.htm.

¹⁶³ Tulane University Law School, *Maryland* (undated), http://www.law.tulane.edu/tuexp/journals/law_sex/aids/maryland.htm.

¹⁶⁴ The Body: The Complete HIV/AIDS Resources, *Ask the Experts About Opportunistic Infections*, undated, <http://www.thebody.com/Forums/AIDS/Infections/Archive/Skin/Q67632.html>.

¹⁶⁵ Karel Costa, *Massagemiami.com* (2001), <http://www.massagemiami.com/>.

A patient's refusal to consent to a HIV test by a health care provider may not, on its own, be used to deny service to the patient.¹⁶⁶

A real estate agent (or other seller of a home) need not disclose the fact that the previous owner or occupant had AIDS.¹⁶⁷

State Program

Maryland shall administer an insurance program for 450 lower-income persons who are HIV-positive and thus unable to work.¹⁶⁸ This program shall pay the health insurance premiums for these individuals.¹⁶⁹

Criminal Law

Willfully transferring (or attempting to transfer) the HIV virus to another person is a misdemeanor.¹⁷⁰

Persons who are convicted of or plead guilty or nolo contendere to crimes relating to prostitution or listed in the Maryland Controlled Dangerous Substances Act are required to participate in an AIDS education program.¹⁷¹

¹⁶⁶ Tulane University Law School, *Maryland* (undated), http://www.law.tulane.edu/tuexp/journals/law_sex/aids/maryland.htm.

¹⁶⁷ Tulane University Law School, *Maryland* (undated), http://www.law.tulane.edu/tuexp/journals/law_sex/aids/maryland.htm.

¹⁶⁸ Tulane University Law School, *Maryland* (undated), http://www.law.tulane.edu/tuexp/journals/law_sex/aids/maryland.htm.

¹⁶⁹ Tulane University Law School, *Maryland* (undated), http://www.law.tulane.edu/tuexp/journals/law_sex/aids/maryland.htm.

¹⁷⁰ Family Service Foundation, *Maryland Law* (1998-2000), <http://www.deafvision.net/dap/resources/law.htm>.

¹⁷¹ Tulane University Law School, *Maryland* (undated), http://www.law.tulane.edu/tuexp/journals/law_sex/aids/maryland.htm.

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http://www.law.tulane.edu/tuexp/journals/law_sex/aids/maryland.htm.

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http://72.14.253.104/search?q=cache:ThjkYGTZ-QJ:wdh.state.wy.us/nursing/administrative%2520_manual.htm%252010-03/AIDS%2520Infection%2520Control.pdf+AIDS+infection+control+procedures&hl=en&gl=us&ct=clnk&cd=49.

Test

Easiest: Take the test online at
<http://mansfieldfc.com/massage/1/HIV/autotest.html>

7 correct answers are required to pass.

If you do not pass the test, an instructor will contact you to discuss the test questions before you retake the test. You may retake the test until you pass it. There is no additional charge. Our goal is for you to learn.

We hope we made your class an educational and entertaining one. Thank you for using us to meet your continuing education needs. We hope you'll consider us in the future also. Your feedback on this class is always welcome.

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Best of fortune to you in your future in this exciting career!

