

Missouri

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April 8, 2011

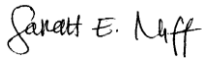
To the Reader:

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 updates and verification concurrent with all changes. We encourage readers to send updates (with citations when possible) and comments to Sarah Neff at neffs@nccc.ucsf.edu.

Thank you,



Sarah E. Neff, MPH
Director of Research and Evaluation

&



Ronald H. Goldschmidt, MD
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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

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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: neffs@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>

Missouri

A Quick Reference Guide for Clinicians to Missouri HIV Testing Laws

April 8, 2011

This Quick Reference Guide for clinicians is a summary of relevant Missouri 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 Missouri HIV testing laws, please refer to the section of the Compendium that follows this Quick Reference Guide.

Informed Consent

- Informed consent is required; oral or written not specified.

Counseling

- Pre- and post-test counseling is required by health professionals other than physicians.
- The scope of pre- and post-test counseling shall be governed by the physician’s judgment and shall be as comprehensive as consultation provided for other diagnostic tests.

Provisos of Testing

- **Anonymous**
 - Testing must be made available anonymously.
 - 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

- No specific provisions regarding the notification of partners or contacts were found.

Minor/Adolescent Testing

- Minors may consent to STD testing and treatment, HIV not explicitly included.
- Physicians may, but are not required to, notify the parents of the HIV test result.

Missouri

Perinatal Quick Reference Guide:

A Guide to Missouri Perinatal HIV Testing Laws for Clinicians

April 8, 2011

This Perinatal Quick Reference Guide for clinicians is a summary of relevant Missouri 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 Missouri 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

Missouri State Policies Relating to HIV Testing, 2011

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Missouri Revised Statutes [RSMo]

Title 12: Public Health and Welfare..... Pages 4-21

Title 28: General Provisions to Contracts..... Page 22

Title 38: Crimes and Punishment, Peace Officers and Public Defenders..... Pages 23-31

Code of State Regulations [CSR]

Title 19: Department of Health and Senior Services..... Pages 32-45

**Title 20: Department of Insurance,
Financial Institutions and Professional Registration**..... Pages 46-48

	Policy Category	Type	Section Code(s)
RESTR.ICTIONS/ MANDATES	Restrictions on use of HIV test	No related laws found	
	Mandatory testing within the criminal justice system	Potential transmission to victim	12 RSMo §191.226 12 RSMo §191.659
		All inmates	12 RSMo §191.659
		Convicted sex offenders, including juvenile offenders, by court order	12 RSMo §191.663
		Court may order persons charged with resisting arrest to submit to testing	38 RSMo §566.135 38 RSMo §575.150
		Court may order persons charged with prostitution to submit to testing	38 RSMo §566.135 38 RSMo §567.020
		Court may order persons charged with assault to submit to testing	38 RSMo §566.135 38 RSMo §565.050-083
		Court may order persons charged with child endangerment to submit to testing	38 RSMo §566.135 38 RSMo §568.045-050
		Court may order persons charged with child abuse to submit to testing	38 RSMo §566.135 38 RSMo §568.060
	Mandatory testing outside of the criminal justice system	State mental health patients if there is reasonable belief of infection	12 RSMo §191.662

		Mandated testing by court order in cases of possible threats to public health	12 RSMo §191.674
PRE-TESTING	Mandatory offering of HIV/AIDS information and/or testing	No related laws found	
	Informed consent	Informed consent required – not specified written vs. verbal	19 CSR 20-26.030
		Written informed consent required for insurance testing	20 CSR 400-2.100
	Counseling requirements	Mandatory pre-test counseling for all persons tested for HIV	12 RSMo §191.653
		Pre- and post-test counseling required for testing by all health care professionals except physicians	19 CSR 20-26.030
		The scope of pre- and post-test counseling shall be governed by the physician's professional judgment and shall be as comprehensive as consultation provided for other diagnostic tests or procedures.	19 CSR 20-26.040
	Anonymous testing	State department of health must sponsor anonymous testing sites	12 RSMo §191.686
POST-TESTING	Disclosure/confidentiality	Exceptions to confidentiality	12 RSMo §191.656 12 RSMo §191.657
		Disclosure by insurers	12 RSMo §191.671
		Disclosure of HIV status of offender to victim	38 RSMo §566.135
		Disclosure of HIV status of sex offender to victim	12 RSMo §191.663
		Disclosure in health worker exposure cases	12 RSMo §191.658
		Disclosure to principals of HIV+ children in public schools	12 RSMo §191.689
	Disclosure to funeral directors	12 RSMo §191.703	
Reporting	Name-based reporting	19 CSR 20-20.020	
OTHER	Testing of pregnant women and/or newborns	No related laws found	
	Testing of minors/adolescents	Minors may consent to STD services, HIV not explicitly included	28 RSMo §431.061

	Physician may, but is not required to, inform parents or guardians	12 RSMo §191.656 2.(1)(f)
	Department must inform parents or guardians if minor is a victim of sexual assault	12 RSMo §191.659
Rapid HIV testing	Rapid testing is available	19 CSR 25-33.010
Training and education of health care providers	Department of Health and Senior Services determines regulations	12 RSMo §191.668, 12 RSMo §191.694

Recommended Resources

Missouri Revised Statutes

<http://www.moga.mo.gov/statutesearch/>

Missouri Code of State Regulations

<http://www.sos.mo.gov/adrules/csr/current/19csr/19csr.asp>

Missouri Department of Health and Senior Services

<http://www.dhss.mo.gov/>

Title 12: Public Health and Welfare
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§ 191.226	<p>Costs of HIV testing for certain crime victims payable by department of health and senior services, when, conditions</p> <p>The department of health and senior services shall pay for the cost of conducting HIV testing for a victim of the crime of rape as defined in section 556.030, RSMo, or of the crime of sodomy as defined in section 566.060, RSMo, or of the crime of incest as defined in section 568.020, RSMo, if a person who is convicted of such crime is determined to be infected with HIV based upon HIV testing conducted upon delivery of the person to the department of corrections pursuant to section 191.659. Such testing shall be limited to not more than two enzyme-linked immunosorbent assay (ELISA) tests per year and such cost of such tests shall not be paid by the department of health and senior services for more than five years after the date the crime was committed. HIV testing conducted pursuant to this section shall be performed by the public health laboratory of the department of health and senior services.</p>
§ 191.650	<p>Definitions</p> <p>As used in sections 191.650 to 191.698*, the following terms mean:</p> <p>(1) "Disclose", to disclose, to release, transfer, disseminate or otherwise communicate all or any part of any record orally, in writing, or by electronic means to any person or entity;</p> <p>(2) "HBV", the hepatitis B virus;</p> <p>(3) "Health care facilities", those licensed under chapters 197, RSMo, and 198, RSMo;</p> <p>(4) "Health care professional", a member of the professional groups regulated by chapters 330, RSMo, 332, RSMo, and 335, RSMo, and sections 334.010 to 334.210**, RSMo;</p> <p>(5) "HIV", the human immunodeficiency virus that causes acquired immunodeficiency syndrome;</p> <p>(6) "HIV infection", the pathological state of the human body in response to HIV;</p> <p>(7) "HIV sampling", taking or ordering the taking of any biological specimen from an individual for the purpose of subjecting such specimen to analysis to determine the presence of HIV or infection;</p> <p>(8) "HIV testing", performing a serological test or other tests upon a biological specimen to determine the presence of HIV or its antibodies in the specimen following HIV sampling;</p>

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	<p>(9) "Invasive procedures", those surgical or obstetric procedures that involve surgical entry into tissues, cavities, or organs and dental procedures involving manipulation, cutting, or removal of oral or perioral tissues, including tooth structure. Routine health care procedures such as physical examinations, blood pressure checks, eye examination, or oral, rectal or vaginal examinations are not considered as invasive procedures;</p> <p>(10) "Person", private individuals and private and public bodies politic and corporate, partnerships, trusts, and unincorporated associations and their officers, directors, agents, or employees.</p>
§ 191.653	<p>HIV testing performed by whom, how -- consultation with subject required, when</p> <p>1. No person shall perform or conduct HIV testing except physicians, hospitals, and those persons authorized by the department of health and senior services. No person shall be authorized by the department of health and senior services to perform or conduct HIV testing unless such person provides suitable verification to the department that such testing shall be performed in accordance with departmental regulations governing the types of tests performed and the manner in which they are administered. The department may monitor the continued compliance of such persons with departmental regulations. Hospitals licensed pursuant to chapter 197, RSMo, shall be deemed to be in compliance with departmental regulations governing HIV testing.</p> <p>2. All HIV testing shall be performed in accordance with the department rules governing HIV testing procedures.</p> <p>3. Except as provided in sections 191.671 and 191.686, all physicians, hospitals, or other persons authorized by the department of health and senior services who perform or conduct HIV sampling shall provide consultation with the subject prior to taking the specimen and during the reporting of the test results and shall report to the department of health and senior services the identity of any individual confirmed to be infected with HIV.</p>
§ 191.656	<p>Confidentiality of reports and records, exceptions -- violation, civil action for injunction, damages, costs and attorney fees -- health care provider participating in judicial proceeding, immune from civil liability</p> <p>1. (1) All information known to, and records containing any information held or maintained by, any person, or by any agency, department, or political subdivision of the state concerning an individual's HIV infection status or the results of any individual's HIV testing shall be strictly confidential and shall not be disclosed except to:</p> <p>(a) Public employees within the agency, department, or political subdivision who need to know to perform their public duties;</p> <p>(b) Public employees of other agencies, departments, or political</p>

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	<p>subdivisions who need to know to perform their public duties;</p> <p>(c) Peace officers, as defined in section 590.100, RSMo, the attorney general or any assistant attorneys general acting on his or her behalf, as defined in chapter 27, RSMo, and prosecuting attorneys or circuit attorneys as defined in chapter 56, RSMo, and pursuant to section 191.657;</p> <p>(d) Prosecuting attorneys or circuit attorneys as defined in chapter 56, RSMo, to prosecute cases pursuant to section 191.677 or 567.020, RSMo. Prosecuting attorneys or circuit attorneys may obtain from the department of health and senior services the contact information and test results of individuals with whom the HIV-infected individual has had sexual intercourse or deviate sexual intercourse. Any prosecuting attorney or circuit attorney who receives information from the department of health and senior services pursuant to the provisions of this section shall use such information only for investigative and prosecutorial purposes and such information shall be considered strictly confidential and shall only be released as authorized by this section;</p> <p>(e) *Persons other than public employees who are entrusted* with the regular care of those under the care and custody of a state agency, including but not limited to operators of day care facilities, group homes, residential care facilities and adoptive or foster parents;</p> <p>(f) As authorized by subsection 2 of this section;</p> <p>(g) Victims of any sexual offense defined in chapter 566, RSMo, which includes sexual intercourse or deviate sexual intercourse, as an element of the crime or to a victim of a section 566.135, RSMo, offense, in which the court, for good cause shown, orders the defendant to be tested for HIV, hepatitis B, hepatitis C, syphilis, gonorrhea, or chlamydia, once the charge is filed. Prosecuting attorneys or circuit attorneys, or the department of health and senior services may release information to such victims;</p> <p>(h) Any individual who has tested positive or false positive to HIV, hepatitis B, hepatitis C, syphilis, gonorrhea, or chlamydia, may request copies of any and all test results relating to said infections.</p> <p>(2) Further disclosure by public employees shall be governed by subsections 2 and 3 of this section;</p> <p>(3) Disclosure by a public employee or any other person in violation of this section may be subject to civil actions brought under subsection 6 of this section, unless otherwise required by chapter 330, 332, 334, or 335, RSMo, pursuant to discipline taken by a state licensing board.</p> <p>2. (1) Unless the person acted in bad faith or with conscious disregard, no person shall be liable for violating any duty or right of confidentiality established by law for disclosing the results of an individual's HIV testing:</p> <p>(a) To the department of health and senior services;</p> <p>(b) To health care personnel working directly with the infected individual who have a reasonable need to know the results for the purpose of providing direct patient health care;</p> <p>(c) Pursuant to the written authorization of the subject of the test result or results;</p> <p>(d) To the spouse of the subject of the test result or results;</p>

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	<p>(e) To the subject of the test result or results;</p> <p>(f) To the parent or legal guardian or custodian of the subject of the testing, if he is an unemancipated minor;</p> <p>(g) To the victim of any sexual offense defined in chapter 566, RSMo, which includes sexual intercourse or deviate sexual intercourse, as an element of the crime or to a victim of a section 566.135, RSMo, offense, in which the court, for good cause shown, orders the defendant to be tested for HIV, B, hepatitis C, syphilis, gonorrhea, or chlamydia, once the charge is filed;</p> <p>(h) To employees of a state licensing board in the execution of their duties under chapter 330, 332, 334, or 335, RSMo, pursuant to discipline taken by a state licensing board;</p> <p>The department of health and senior services and its employees shall not be held liable for disclosing an HIV-infected person's HIV status to individuals with whom that person had sexual intercourse or deviate sexual intercourse;</p> <p>(2) Paragraphs (b) and (d) of subdivision (1) of this subsection shall not be construed in any court to impose any duty on a person to disclose the results of an individual's HIV testing to a spouse or health care professional or other potentially exposed person, parent or guardian;</p> <p>(3) No person to whom the results of an individual's HIV testing has been disclosed pursuant to paragraphs (b) and (c) of subdivision (1) of this subsection shall further disclose such results; except that prosecuting attorneys or circuit attorneys may disclose such information to defense attorneys defending actions pursuant to section 191.677 or 567.020, RSMo, under the rules of discovery, or jurors or court personnel hearing cases pursuant to section 191.677 or 567.020, RSMo. Such information shall not be used or disclosed for any other purpose;</p> <p>(4) When the results of HIV testing, disclosed pursuant to paragraph (b) of subdivision (1) of this subsection, are included in the medical record of the patient who is subject to the test, the inclusion is not a disclosure for purposes of such paragraph so long as such medical record is afforded the same confidentiality protection afforded other medical records.</p> <p>3. All communications between the subject of HIV testing and a physician, hospital, or other person authorized by the department of health and senior services who performs or conducts HIV sampling shall be privileged communications.</p> <p>4. The identity of any individual participating in a research project approved by an institutional review board shall not be reported to the department of health and senior services by the physician conducting the research project.</p> <p>5. The subject of HIV testing who is found to have HIV infection and is aware of his or her HIV status shall disclose such information to any health care professional from whom such person receives health care services. Said notification shall be made prior to receiving services from</p>

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	<p>such health care professional if the HIV-infected person is medically capable of conveying that information or as soon as he or she becomes capable of conveying that information.</p> <p>6. Any individual aggrieved by a violation of this section or regulations promulgated by the department of health and senior services may bring a civil action for damages. If it is found in a civil action that:</p> <p>(1) A person has negligently violated this section, the person is liable, for each violation, for:</p> <p>(a) The greater of actual damages or liquidated damages of one thousand dollars; and</p> <p>(b) Court costs and reasonable attorney's fees incurred by the person bringing the action; and</p> <p>(c) Such other relief, including injunctive relief, as the court may deem appropriate; or</p> <p>(2) A person has willfully or intentionally or recklessly violated this section, the person is liable, for each violation, for:</p> <p>(a) The greater of actual damages or liquidated damages of five thousand dollars; and</p> <p>(b) Exemplary damages; and</p> <p>(c) Court costs and reasonable attorney's fees incurred by the person bringing the action; and</p> <p>(d) Such other relief, including injunctive relief, as the court may deem appropriate.</p> <p>7. No civil liability shall accrue to any health care provider as a result of making a good faith report to the department of health and senior services about a person reasonably believed to be infected with HIV, or cooperating in good faith with the department in an investigation determining whether a court order directing an individual to undergo HIV testing will be sought, or in participating in good faith in any judicial proceeding resulting from such a report or investigations; and any person making such a report, or cooperating with such an investigation or participating in such a judicial proceeding, shall be immune from civil liability as a result of such actions so long as taken in good faith.</p>
§ 191.657	<p>Disclosure of confidential HIV information, by court order, only to certain persons, procedure, when</p> <p>1. No court shall issue an order for the disclosure of confidential HIV-related information, except a court of record of competent jurisdiction in accordance with the provisions of this section.</p> <p>2. Pursuant to section 191.656, a court may grant an order for disclosure of confidential HIV-related information to peace officers, the attorney general or any assistant attorneys general acting on his or her behalf, and prosecuting attorneys upon an application showing:</p> <p>(1) A compelling need for disclosure of the information for the adjudication of a criminal or civil proceeding;</p> <p>(2) A clear and imminent danger to an individual whose life or health</p>

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	<p>may unknowingly be at significant risk as a result of contact with the individual to whom the information pertains;</p> <p>(3) Upon application of a state, county or local health officer, a clear and imminent danger to the public health; or</p> <p>(4) That the applicant is lawfully entitled to the disclosure and the disclosure is consistent with the provisions of this section.</p> <p>3. Upon receiving an application for an order authorizing disclosure pursuant to this section, the court shall enter an order directing that all pleadings, papers, affidavits, judgments, orders of the court, briefs and memoranda of law which are part of the application or the decision thereon, be sealed and not made available to any person, except to the extent necessary to conduct any proceedings in connection with the determination of whether to grant or deny the application, including any appeal. Such an order shall further direct that all subsequent proceedings in connection with the application shall be conducted in camera, and, where appropriate to prevent the unauthorized disclosure of confidential HIV-related information, that any pleadings, papers, affidavits, judgments, orders of the court, briefs and memoranda of law which are part of the application or the decision thereon not state the name of the individual concerning whom confidential HIV-related information is sought.</p> <p>4. (1) The individual concerning whom confidential HIV- related information is sought and any person holding records concerning confidential HIV-related information from whom disclosure is sought shall be given adequate notice of such application in a manner which will not disclose to any other person the identity of the individual, and shall be afforded an opportunity to file a written response to the application, or to appear in person for the limited purpose of providing evidence on the statutory criteria for the issuance of an order pursuant to this section.</p> <p>(2) The court may grant an order without such notice and opportunity to be heard, where an ex parte application by a state, county, or local health officer shows that a clear and imminent danger to an individual, whose life or health may unknowingly be at risk, requires an immediate order.</p> <p>(3) Service of a subpoena shall not be subject to this subdivision.</p> <p>5. In assessing compelling need and clear and imminent danger, the court shall provide written findings of fact, including scientific or medical findings, citing specific evidence in the record which supports each finding, and shall weigh the need for disclosure against the privacy interest of the protected individual and the public interest which may be disserved by disclosure which deters future testing or treatment or which may lead to discrimination.</p> <p>6. An order authorizing disclosure of confidential HIV- related information shall:</p> <p>(1) Limit disclosure to that information which is necessary to fulfill the purpose for which the order is granted; and</p>

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	<p>(2) Limit disclosure to those persons whose need for the information is the basis for the order, and specifically prohibit redisclosure by such persons to any other persons, whether or not they are parties to the action; and</p> <p>(3) To the extent possible consistent with this section, conform to the provisions of this section; and</p> <p>(4) Include such other measures as the court deems necessary to limit any disclosures not authorized by its order.</p>
§ 191.658	<p>HIV infection status disclosure by department of health and senior services to exposed health workers or law enforcement officers, when, violation, penalty</p> <p>1. As used in this section, the following terms shall mean:</p> <p>(1) "Disclose", to disclose, release, transfer, disseminate or otherwise communicate all or any part of any record orally, in writing or by electronic means to any person or entity;</p> <p>(2) "Health care practitioner", any licensed physician, nurse practitioner or physician's assistant;</p> <p>(3) "HIV", the human immunodeficiency virus that causes acquired immunodeficiency syndrome;</p> <p>(4) "HIV infection", the pathological state of the human body in response to HIV;</p> <p>(5) "Medically significant exposure", a puncture through or laceration of the skin, or contact of mucous membrane or nonintact skin with blood, tissue, wound exudate or other body fluids, including semen, vaginal secretions, cerebrospinal fluid, synovial fluid, pleural fluid, peritoneal fluid, pericardial fluid, amniotic fluid or any body fluid containing visible blood, or contact of intact skin with any such body fluids when the duration of contact is prolonged or involves an extensive area of skin;</p> <p>(6) "Person", private individuals, private or public bodies politic, and corporations, partnerships, trusts, and unincorporated associations and their officers, directors, agents or employees;</p> <p>(7) "Source individual", the person who is the source of the blood or other body fluids to which medically significant exposure occurred.</p> <p>2. A health care practitioner providing medical treatment for a health care worker or law enforcement officer because of a medically significant exposure to blood or other body fluids that occurred in the course of the worker's or officer's employment may request from the department of health and senior services information regarding the HIV infection status of the source individual. The department of health and senior services may disclose to the health care practitioner the HIV infection status of the source individual if such information is on file with the department.</p> <p>3. The health care practitioner shall disclose the HIV infection status of the source individual to the exposed health care worker or law enforcement officer if, in the professional judgment of the health care practitioner, such disclosure is necessary to assure adherence to a prescribed treatment regimen.</p>

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	<p>4. No person to whom information about an individual's HIV infection has been disclosed pursuant to this section shall further disclose such results.</p> <p>5. Any person who knowingly releases information in violation of this section is guilty of a class A misdemeanor.</p>
§ 191.659	<p>Department of corrections, HIV and infectious diseases testing without right of refusal -- exception -- minors victim of sexual assault, testing, notice to parents or custodians required</p> <p>1. Except as provided in subsection 2 of this section, all individuals who are delivered to the department of corrections and all individuals who are released or discharged from any correctional facility operated by the department of corrections, before such individuals are released or discharged, shall undergo HIV and tuberculosis testing without the right of refusal. In addition, the department of corrections may perform or conduct infectious disease testing on offenders without the right of refusal.</p> <p>2. The department of corrections shall not perform HIV testing on an individual delivered to the department if similar HIV testing has been performed on the individual subsequent to trial and if the department is able to obtain the results of the prior HIV test.</p> <p>3. The department shall inform the victim of any sexual offense defined in chapter 566, RSMo, which includes sexual intercourse or deviate sexual intercourse as an element of the crime, of any confirmed positive results of HIV testing performed on an offender within the custody of the department. If the victim is an unemancipated minor, the department shall also inform the minor's parents or custodian, if any.</p>
§ 191.662	<p>Department of mental health, permissive HIV testing without right of refusal, when -- results of testing not to be reported to department of health and senior services, when</p> <p>1. The department of mental health may perform or conduct HIV testing or HIV sampling without the right of refusal on:</p> <p>(1) Any individual participating in a methadone treatment program for the treatment of intravenous drug abuse and who has refused to undergo such testing whenever there are reasonable grounds to believe that the individual is infected with HIV and is a reasonable health threat to others;</p> <p>(2) Any individual under the care and custody of the department of mental health who has refused to undergo testing whenever there are reasonable grounds to believe that the individual is infected with HIV and is a reasonable health threat to others, unless such testing is otherwise prohibited by law.</p> <p>2. The department of mental health shall not report to the department of health and senior services the identity of any individual for whom HIV</p>

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	testing pursuant to this section confirms HIV infection if such reporting is prohibited by federal law or regulation.
§ 191.663	<p>HIV testing, defined -- court order to test certain sexual offenders -- costs -- bond -- disclosure of results of test -- parents of unemancipated minor informed, when</p> <p>1. As used in this section and section 191.659, the term "HIV testing" means serological test or other test upon a biological specimen to determine the presence of the human immunodeficiency virus that causes acquired immunodeficiency syndrome or its antibodies in the specimen.</p> <p>2. Any person who is convicted or who pleads guilty or nolo contendere to any sexual offense defined in chapter 566, RSMo, or any juvenile who is adjudicated pursuant to subsection 3 of section 211.181, RSMo, for an offense which would have been a sexual offense defined in chapter 566, RSMo, if committed by an adult, which includes, in accordance with subsection (f) of 42 U.S.C. 3756, a sexual act as defined in subparagraphs (A) and (B) of paragraph (2) of 18 U.S.C. 2245 as an element of the offense, shall be ordered by the court to undergo HIV testing prior to incarceration without the right of refusal.</p> <p>3. Costs of such HIV testing shall be taxed to the defendant as costs in the criminal proceeding. Such testing costs may be retained by the court from the bond filed by the defendant pursuant to subsection 4 of this section. Costs of such HIV testing for juveniles may be collected as provided for in section 211.281, RSMo.</p> <p>4. Any defendant charged in a court of general jurisdiction with a sexual offense defined in chapter 566, RSMo, which includes, in accordance with subsection (f) of 42 U.S.C. 3756, a sexual act as defined in subparagraphs (A) and (B) of paragraph (2) of 18 U.S.C. 2245 as an element of the crime, shall be required to post a minimum bond amount for his or her release prior to trial. The minimum bond amount shall be sufficient to cover the cost of any post-trial HIV testing ordered by the court.</p> <p>5. Notwithstanding any provision of section 191.656, or any other law to the contrary, the victim of any crime defined in chapter 566, RSMo, which includes, in accordance with subsection (f) of 42 U.S.C. 3756, a sexual act as defined in subparagraphs (A) and (B) of paragraph (2) of 18 U.S.C. 2245 as an element, shall have a right to access to the results of any HIV testing performed pursuant to the provisions of this section, and the victim shall be informed of any confirmed positive results of the HIV testing. If the victim is an unemancipated minor, the minor's parents or custodian, if any, shall also be informed. The administrator of the jail or correctional facility in which the defendant is confined shall also have access to the test results.</p>
§ 191.668	Department of health and senior services and department of

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	<p>elementary and secondary education to prepare education programs, contents.</p> <p>1. The department of health and senior services shall prepare public education and awareness plans and programs for the general public, and the department of elementary and secondary education shall prepare educational programs for public schools, regarding means of transmission and prevention and treatment of the HIV virus. The plans and programs shall include, but not be limited to:</p> <p>(1) Medically correct, age specific, transmission and prevention programs for use at the discretion of the public schools beginning with students at the sixth grade level. The educational programs shall stress moral responsibility in and restraint from sexual activity and avoidance of controlled substance use whereby HIV can be transmitted;</p> <p>(2) Risk reduction programs for specific populations at high risk of HIV infection;</p> <p>(3) Educational programs on transmission and prevention of HIV infection in the workplace for use by employers;</p> <p>(4) Personal protection procedures for use by health care providers and others in close contact with potentially infected individuals;</p> <p>(5) General public information programs and circulars containing factual information that will allow the public at large to assess its risk and develop informed individual judgment and behavior. The department shall prepare for free distribution among the residents of the state printed information concerning the means of transmission of the HIV virus, the dangers from HIV infection, means of prevention, and the necessity for testing; and</p> <p>(6) Develop presentations for community service and school organizations describing the medical and psychosocial aspects of HIV infection, including information on how infection is transmitted and can be prevented.</p> <p>2. None of the plans, programs or printed information prepared or provided under this section shall promote behavior that is an offense in violation of chapter 566, RSMo, concerning sexual offenses; is an offense involving the use of a controlled substance as defined in chapter 195, RSMo; is an offense in violation of section 568.020, RSMo, concerning incest; or is an offense in violation of any city, county or state law prohibiting prostitution or patronizing prostitution.</p>
§ 191.671	<p>Insurance companies, HMOs or health service corporations, HIV testing by, regulation by department of insurance -- disclosure of test results, confidentiality</p>

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	<p>1. No other section of this act* shall apply to any insurer, health services corporation, or health maintenance organization licensed by the department of insurance which conducts HIV testing only for the purposes of assessing a person's fitness for insurance coverage offered by such insurer, health services corporation, or health maintenance corporation, except that nothing in this section shall be construed to exempt any insurer, health services corporation or health maintenance organization in their capacity as employers from the provisions of section 191.665 relating to employment practices.</p> <p>2. Upon renewal of any individual or group insurance policy, subscriber contractor health maintenance organization contract covering medical expenses, no insurer, health services corporation or health maintenance organization shall deny or alter coverage to any previously covered individual who has been diagnosed as having HIV infection or any HIV-related condition during the previous policy or contract period only because of such diagnosis, nor shall any such insurer, health services corporation or health maintenance organization exclude coverage for treatment of such infection or condition with respect to any such individual.</p> <p>3. The director of the department of insurance shall establish by regulation standards for the use of HIV testing by insurers, health services corporations and health maintenance organizations.</p> <p>4. A laboratory certified by the U.S. Department of Health and Human Services under the Clinical Laboratory Improvement Act of 1967, permitting testing of specimens obtained in interstate commerce, and which subjects itself to ongoing proficiency testing by the College of American Pathologists, the American Association of Bio Analysts, or an equivalent program approved by the Centers for Disease Control shall be authorized to perform or conduct HIV testing for an insurer, health services corporation or health maintenance organization pursuant to this section.</p> <p>5. The result or results of HIV testing of an applicant for insurance coverage shall not be disclosed by an insurer, health services corporation or health maintenance organization, except as specifically authorized by such applicant in writing. Such result or results shall, however, be disclosed to a physician designated by the subject of the test. If there is no physician designated, the insurer, health services corporation, or health maintenance organization shall disclose the identity of individuals residing in Missouri having a confirmed positive HIV test result to the department of health and senior services. Provided, further, that no such insurer, health services corporation or health maintenance organization shall be liable for violating any duty or right of confidentiality established by law for disclosing such identity of individuals having a confirmed positive HIV test result to the department of health and senior services. Such disclosure shall be in a manner that ensures confidentiality. Disclosure of test results in violation of this section shall constitute a</p>

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	violation of sections 375.930 to 375.948, RSMo , regulating trade practices in the business of insurance. Nothing in this subsection shall be construed to foreclose any remedies existing on June 1, 1988.
§ 191.674	<p>Court-ordered HIV testing without right of refusal, department of health and senior services may seek, when -- court record closed, proceeding to be in camera, when</p> <p>1. The department of health and senior services may seek in its own name in a court of competent jurisdiction a court order directing an individual to undergo HIV testing without the right of refusal after reasonable efforts have been made by the department to obtain informed consent to HIV testing. The court shall grant such order whenever there are reasonable grounds to believe that an individual is infected with HIV and there is clear and convincing evidence of a serious and present health threat to others posed by the individual if infected.</p> <p>2. The record of any suit filed pursuant to this section shall be closed to the public and, at the request of the individual, any hearing shall be held in camera.</p>
§ 191.677	<p>Prohibited acts, criminal penalties</p> <p>1. It shall be unlawful for any individual knowingly infected with HIV to:</p> <ul style="list-style-type: none"> (1) Be or attempt to be a blood, blood products, organ, sperm or tissue donor except as deemed necessary for medical research; (2) Act in a reckless manner by exposing another person to HIV without the knowledge and consent of that person to be exposed to HIV, in one of the following manners: <ul style="list-style-type: none"> (a) Through contact with blood, semen or vaginal secretions in the course of oral, anal or vaginal sexual intercourse; or (b) By the sharing of needles; or (c) By biting another person or purposely acting in any other manner which causes the HIV-infected person's semen, vaginal secretions, or blood to come into contact with the mucous membranes or nonintact skin of another person. <p>Evidence that a person has acted recklessly in creating a risk of infecting another individual with HIV shall include, but is not limited to, the following:</p> <ul style="list-style-type: none"> a. The HIV-infected person knew of such infection before engaging in sexual activity with another person, sharing needles with another person, biting another person, or purposely causing his or her semen, vaginal secretions, or blood to come into contact with the mucous membranes or nonintact skin of another person, and such other person is unaware of the HIV-infected person's condition or does not consent to contact with blood, semen or vaginal fluid in the course of such activities; b. The HIV-infected person has subsequently been infected with and tested positive to primary and secondary syphilis, or gonorrhea, or chlamydia; or

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	<p>c. Another person provides evidence of sexual contact with the HIV-infected person after a diagnosis of an HIV status.</p> <p>2. Violation of the provisions of subdivision (1) or (2) of subsection 1 of this section is a class B felony unless the victim contracts HIV from the contact in which case it is a class A felony.</p> <p>3. The department of health and senior services or local law enforcement agency, victim or others may file a complaint with the prosecuting attorney or circuit attorney of a court of competent jurisdiction alleging that a person has violated a provision of subsection 1 of this section. The department of health and senior services shall assist the prosecutor or circuit attorney in preparing such case, and upon request, turn over to peace officers, police officers, the prosecuting attorney or circuit attorney, or the attorney general records concerning that person's HIV-infected status, testing information, counseling received, and the identity and available contact information for individuals with whom that person had sexual intercourse or deviate sexual intercourse and those individuals' test results.</p> <p>4. The use of condoms is not a defense to a violation of paragraph (a) of subdivision (2) of subsection 1 of this section.</p>
§ 191.686	<p>Anonymous testing sites in central Missouri, Kansas City, Springfield and St. Louis -- reports of results, use of coded system -- contact notification required, when</p> <p>1. The department of health and senior services shall designate one HIV testing site in the St. Louis area, one in the Kansas City area, one in the central Missouri area and one in the Springfield area where those persons not required to undergo HIV testing without the right of refusal may be tested anonymously.</p> <p>2. All physicians, hospitals, or other persons authorized by the department of health and senior services who perform or conduct HIV sampling may refuse to perform or conduct anonymous HIV sampling for an individual and may refer such person to the designated HIV testing sites.</p> <p>3. A coded system that does not link individual identity with the request or result shall be used to report the results of such testing to the department of health and senior services.</p> <p>4. All designated HIV testing sites shall be required to initiate contact notification when submitting test results to individuals who request anonymous testing and who test positive for HIV infection.</p>
§ 191.689	<p>Schools to be given notice of identity of child with HIV infection, when, by whom -- identity of infected child may be released to whom by school</p>

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	<p>1. Only after a school has adopted a policy consistent with recommendations of the Centers for Disease Control on school children who test positive for HIV shall the department of health and senior services give prompt and confidential notice of the identity of any child reported to the department to have HIV infection and the parent or guardian of any child confirmed by the department of health and senior services standards to have HIV infection shall also give prompt and confidential notice of the identity of such child to the superintendent of the school district in which the child resides, and if the child attends a nonpublic elementary or secondary school, to the chief administrative officer of such school.</p> <p>2. The superintendent or chief administrative officer may disclose the identity of an infected child to those persons:</p> <p style="padding-left: 40px;">(1) Who are designated by the school district to determine the fitness of an individual to attend school; and</p> <p style="padding-left: 40px;">(2) Who have a reasonable need to know the identity of the child in order to provide proper health care.</p>
§ 191.692	<p>Premarital HIV testing, rulemaking authorized, when</p> <p>The department of health and senior services may promulgate rules providing for mandatory premarital HIV testing if the Centers for Disease Control so indicates.</p>
§ 191.694	<p>Infection control procedures -- requirements and training for health care facilities and professionals</p> <p>1. All health care professionals and health care facilities shall adhere to universal precautions, as defined by the Centers for Disease Control of the United States Public Health Service, including the appropriate use of hand washing, protective barriers, and care in the use and disposal of needles and other sharp instruments, to minimize the risk of transmission of HIV, HBV and other blood-borne infections to patients. Health care professionals and health care facilities shall comply with current guidelines, established by the Centers for Disease Control, for disinfection and sterilization of reusable devices used in invasive procedures.</p> <p>2. Health care professionals who have exudative lesions or weeping dermatitis of the hands, forearms, or other locations that may contact patients, particularly on exposed areas such as hands or forearms, shall refrain from performing all invasive procedures, and from handling patient-care equipment and devices used in performing invasive procedures until the condition resolves.</p> <p>3. As a condition for renewal of a certificate of registration or authority, permit, or license, all health care facilities shall provide satisfactory</p>

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	<p>evidence that periodic training in infection control procedures, including universal precautions, is provided to all personnel who perform patient care services at or from such facilities. Regulations for such training shall be promulgated by the state regulatory authorities or bodies responsible for licensing the respective health care facilities.</p> <p>4. All health care professionals who perform invasive procedures shall receive training on infection control procedures relevant to HIV and related diseases, including universal precautions and prevention of percutaneous injuries, appropriate for their specialty and approved by the department of health and senior services. The department of health and senior services, in cooperation with appropriate state regulatory authorities responsible for licensing the respective health care professionals and in cooperation with professional societies, shall develop regulations for such training. The requirements set forth in this subsection shall be deemed satisfied if the health care professional completes the training provided in accordance with the provisions of subsection 3 of this section.</p>
§ 191.699	<p>Disciplinary action for health care professionals who discriminate or require HIV testing before treatment</p> <p>Any health care professional who, after disclosure has been made by a patient of HIV infection, discriminates against the patient on the basis of that HIV infection or who, prior to such disclosure, makes HIV testing a condition of treatment shall be subject to administrative disciplinary action for violation of a professional trust or confidence or the commission of an act of unprofessional conduct as those terms are used in sections 330.160, RSMo, 332.321, RSMo, 334.100, RSMo, and 335.066, RSMo.</p>
§ 191.700	<p>Testing of all health care professionals not justified -- voluntary and confidential evaluation of infected professional, procedure -- expert review panel qualifications, powers and duties, practice restrictions, when -- health care facilities informed only of restrictions -- violations, complaints made to appropriate boards</p> <p>1. The current assessment by the Centers for Disease Control of the risk that infected health care professionals will transmit HIV or HBV to patients during invasive procedures does not justify mandatory testing to detect infection with those viruses. Health care professionals who perform invasive procedures are advised, however, to know their HIV antibody status and their hepatitis B antigen status.</p> <p>2. (1) The department of health and senior services shall establish and oversee a voluntary evaluation process for health care professionals infected with HIV or HBV who perform invasive procedures. This evaluation process may be accessed directly by an infected health care professional, or by the director of a health care facility with the consent of the infected health care professional and after consultation with his private physician.</p>

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	<p>(2) The confidential and individualized evaluation shall be conducted by an expert review panel appointed by the department of health and senior services. Each panel shall include at least such individuals as:</p> <ul style="list-style-type: none"> (a) The health care professional's private physician; (b) An infectious disease specialist with expertise in the epidemiology of HIV and HBV transmission who is not involved in the care of the health care professional; (c) A health care professional with expertise in the procedures performed by the infected health care professional; and (d) A state or local public health official. <p>(3) The department of health and senior services, in cooperation with appropriate state regulatory authorities or bodies responsible for licensing the respective health care professionals and with professional societies, shall develop uniform evaluation criteria which shall be used in determining whether, and under what circumstances, any restrictions or limitations should be placed on an individual health care professional's medical practice. These criteria shall, consistent with guidelines from the Centers for Disease Control, include at least the following inquiries:</p> <ul style="list-style-type: none"> (a) Whether the health care professional performs procedures in which injury could result in that individual's blood contamination of a patient's body cavity, subcutaneous tissues, or mucous membranes; (b) The nature of the invasive procedures performed by the health care professional and the techniques used, skill and experience, and compliance with infection control practices demonstrated by that individual; and (c) Whether the presence of physical or mental impairments may interfere with the health care professional's ability to perform such invasive procedures safely. <p>(4) (a) The individualized evaluation and the recommendations of the panel shall be based on the premise that HIV or HBV infection alone does not justify limiting the health care professional's duties.</p> <p>(b) The panel may determine which procedures the health care professional may or may not perform, or perform with modifications. If the panel is uncertain about whether a procedure may pose some risk of HIV or HBV transmission, it may recommend that such procedures be performed only after the patients have been informed of the health care professional's infection status.</p> <p>(5) (a) Information obtained during the evaluation process shall be confidential and shall not be disclosed except to health care facilities where the health care professional provides patient care. The department of health and senior services may only notify or disclose to such facilities the practice restrictions and limitations imposed on the health care professional. Such restrictions and limitations shall be disclosed only to those employed by such health care facilities who have a reasonable need to know the information.</p> <p>(b) Practice restrictions or limitations recommended by the</p>

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	<p>department of health and senior services shall be monitored by the health care facilities in which the infected health care professional is employed. If practice restrictions or limitations are placed on community based health care professionals, periodic monitoring to ensure compliance shall be performed by the department of health and senior services.</p> <p>(c) Health care professionals whose practices are restricted or limited because of their HIV or HBV infection status shall, whenever possible, be provided opportunities to continue appropriate patient care activities.</p> <p>(d) Health care facilities regulated under sections 197.010 to 197.120, RSMo, may maintain or establish peer review panels that operate under the regulations developed by the department of health and senior services and the recommendations of the Centers for Disease Control of the United States Public Health Service.</p> <p>(e) Any violation of practice restrictions or limitations by a health care professional shall constitute either an act violative of professional trust and confidence, or failure or refusal to properly guard against contagious infections or communicable diseases or the spread thereof, or both, as these terms are used in sections 330.160, RSMo, 332.321, RSMo, 334.100, RSMo, and 335.066, RSMo. Complaints of possible violations of practice restrictions or limitations may be made to the appropriate state board, as provided under chapter 330, RSMo, chapter 332, RSMo, chapter 334, RSMo, or chapter 335, RSMo.</p> <p>3. The department of health and senior services shall, from time to time, review established standards for preventing the transmission of HIV or HBV from health care professionals to patients and, consistent with current medical knowledge and revised or updated guidelines from the Centers for Disease Control, modify existing standards and require additional minimum standards, as appropriate.</p> <p>4. Notwithstanding the provisions of sections 191.650 to 191.698, the department of health and senior services may exercise the general authority and power under section 192.020, RSMo, to intervene in instances where there is reason to believe that a health care professional is practicing in a manner that creates a grave and unjustifiable risk of injury to others.</p>
§ 191.703	<p>Death of patient with infectious or contagious disease, notification to funeral director or coroner</p> <p>A licensed health care facility that treats a patient having HIV or HBV infection or any other reportable infectious or contagious disease as defined by the department of health and senior services shall notify the funeral establishment personnel, coroner or medical examiner involved of such disease prior to the removal of the patient, when deceased, from the licensed health care facility. Notification shall be conducted in a manner that protects the confidentiality of the deceased patient.</p>
§ 192.808	<p>Mandatory testing not to be required, exception -- emergency personnel to treat persons with HIV and communicable diseases --</p>

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	<p data-bbox="443 268 1162 300">identity of patient to be confidential, exceptions</p> <ol data-bbox="443 331 1435 783" style="list-style-type: none"><li data-bbox="443 331 1435 464">1. Sections 192.800 to 192.808 shall not be construed to authorize or require a licensed facility to test any patient for any communicable disease, nor shall mandatory testing of any person be required, except as provided for in sections 191.659, 191.662 and 191.674, RSMo.<li data-bbox="443 495 1435 590">2. All emergency response employees are required to respond to and treat any patient regardless of HIV or other communicable disease infection.<li data-bbox="443 621 1435 783">3. Sections 192.800 to 192.808 shall not be construed to require or permit the department of health and senior services or its designated officers to collect information concerning HIV infection in a form that permits the identity of the patient to be determined, except as otherwise provided by law.

Title 28: General Provisions to Contracts

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§ 431.061	<p data-bbox="440 352 1390 386">Consent to surgical or medical treatment, who may give, when.</p> <p data-bbox="440 420 1427 579">In addition to such other persons as may be so authorized and empowered, any one of the following persons if otherwise competent to contract, is authorized and empowered to consent, either orally or otherwise, to any surgical, medical, or other treatment or procedures not prohibited by law:</p> <ol data-bbox="440 613 1395 1031" style="list-style-type: none"><li data-bbox="440 613 1195 646">(1) Any adult eighteen years of age or older for himself;<li data-bbox="440 680 1167 714">(2) Any parent for his minor child in his legal custody;<li data-bbox="440 747 1395 840">(3) Any minor who has been lawfully married and any minor parent or legal custodian of a child for himself, his child and any child in his legal custody;<li data-bbox="440 873 1365 1031">(4) Any minor for himself in case of:<ol data-bbox="477 907 1365 999" style="list-style-type: none"><li data-bbox="477 907 1008 940">(a) Pregnancy, but excluding abortions;<li data-bbox="477 940 764 974">(b) Venereal disease;<li data-bbox="477 974 1365 1031">(c) Drug or substance abuse including those referred to in chapter 195, RSMo;

Title 38: Crimes and Punishment, Peace Officers and Public Defenders

MO Title 38 Code §	Code Language
565.050	<p>Assault, first degree, penalty.</p> <p>1. A person commits the crime of assault in the first degree if he attempts to kill or knowingly causes or attempts to cause serious physical injury to another person.</p> <p>2. Assault in the first degree is a class B felony unless in the course thereof the actor inflicts serious physical injury on the victim in which case it is a class A felony.</p>
565.060	<p>Assault, second degree, penalty.</p> <p>1. A person commits the crime of assault in the second degree if he:</p> <ul style="list-style-type: none"> (1) Attempts to kill or knowingly causes or attempts to cause serious physical injury to another person under the influence of sudden passion arising out of adequate cause; or (2) Attempts to cause or knowingly causes physical injury to another person by means of a deadly weapon or dangerous instrument; or (3) Recklessly causes serious physical injury to another person; or (4) While in an intoxicated condition or under the influence of controlled substances or drugs, operates a motor vehicle in this state and, when so operating, acts with criminal negligence to cause physical injury to any other person than himself; or (5) Recklessly causes physical injury to another person by means of discharge of a firearm; or (6) Operates a motor vehicle in violation of subsection 2 of section 304.022, RSMo, and when so operating, acts with criminal negligence to cause physical injury to any person authorized to operate an emergency vehicle, as defined in section 304.022, RSMo, while such person is in the performance of official duties. <p>2. The defendant shall have the burden of injecting the issue of influence of sudden passion arising from adequate cause under subdivision (1) of subsection 1 of this section.</p> <p>3. Assault in the second degree is a class C felony.</p>
565.070	<p>Assault in the third degree.</p> <p>1. A person commits the crime of assault in the third degree if:</p> <ul style="list-style-type: none"> (1) The person attempts to cause or recklessly causes physical injury to another person; or (2) With criminal negligence the person causes physical injury to another person by means of a deadly weapon; or (3) The person purposely places another person in apprehension of immediate physical injury; or (4) The person recklessly engages in conduct which creates a grave risk of death or serious physical injury to another person; or

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	<p>(5) The person knowingly causes physical contact with another person knowing the other person will regard the contact as offensive or provocative; or</p> <p>(6) The person knowingly causes physical contact with an incapacitated person, as defined in section 475.010, RSMo, which a reasonable person, who is not incapacitated, would consider offensive or provocative.</p> <p>2. Except as provided in subsections 3 and 4 of this section, assault in the third degree is a class A misdemeanor.</p> <p>3. A person who violates the provisions of subdivision (3) or (5) of subsection 1 of this section is guilty of a class C misdemeanor.</p> <p>4. A person who has pled guilty to or been found guilty of the crime of assault in the third degree more than two times against any family or household member as defined in section 455.010, RSMo, is guilty of a class D felony for the third or any subsequent commission of the crime of assault in the third degree when a class A misdemeanor. The offenses described in this subsection may be against the same family or household member or against different family or household members.</p>
565.072	<p>Domestic assault, first degree--penalty.</p> <p>1. A person commits the crime of domestic assault in the first degree if he or she attempts to kill or knowingly causes or attempts to cause serious physical injury to a family or household member or an adult who is or has been in a continuing social relationship of a romantic or intimate nature with the actor, as defined in section 455.010, RSMo.</p> <p>2. Domestic assault in the first degree is a class B felony unless in the course thereof the actor inflicts serious physical injury on the victim in which case it is a class A felony.</p>
565.073	<p>Domestic assault, second degree--penalty.</p> <p>1. A person commits the crime of domestic assault in the second degree if the act involves a family or household member or an adult who is or has been in a continuing social relationship of a romantic or intimate nature with the actor, as defined in section 455.010, RSMo, and he or she:</p> <p>(1) Attempts to cause or knowingly causes physical injury to such family or household member by any means, including but not limited to, by use of a deadly weapon or dangerous instrument, or by choking or strangulation; or</p> <p>(2) Recklessly causes serious physical injury to such family or household member; or</p> <p>(3) Recklessly causes physical injury to such family or household member by means of any deadly weapon.</p> <p>2. Domestic assault in the second degree is a class C felony.</p>

MO Title 38 Code §	Code Language
565.074	<p>Domestic assault, third degree--penalty.</p> <p>1. A person commits the crime of domestic assault in the third degree if the act involves a family or household member or an adult who is or has been in a continuing social relationship of a romantic or intimate nature with the actor, as defined in section 455.010, RSMo, and:</p> <p>(1) The person attempts to cause or recklessly causes physical injury to such family or household member; or</p> <p>(2) With criminal negligence the person causes physical injury to such family or household member by means of a deadly weapon or dangerous instrument; or</p> <p>(3) The person purposely places such family or household member in apprehension of immediate physical injury by any means; or</p> <p>(4) The person recklessly engages in conduct which creates a grave risk of death or serious physical injury to such family or household member; or</p> <p>(5) The person knowingly causes physical contact with such family or household member knowing the other person will regard the contact as offensive; or</p> <p>(6) The person knowingly attempts to cause or causes the isolation of such family or household member by unreasonably and substantially restricting or limiting such family or household member's access to other persons, telecommunication devices or transportation for the purpose of isolation.</p> <p>2. Except as provided in subsection 3 of this section, domestic assault in the third degree is a class A misdemeanor.</p> <p>3. A person who has pleaded guilty to or been found guilty of the crime of domestic assault in the third degree more than two times against any family or household member as defined in section 455.010, RSMo, is guilty of a class D felony for the third or any subsequent commission of the crime of domestic assault. The offenses described in this subsection may be against the same family or household member or against different family or household members.</p>
565.075	<p>Assault while on school property, penalty.</p> <p>1. A person commits the crime of assault while on school property if the person:</p> <p>(1) Knowingly causes physical injury to another person; or</p> <p>(2) With criminal negligence, causes physical injury to another person by means of a deadly weapon; or</p> <p>(3) Recklessly engages in conduct which creates a grave risk of death or serious physical injury to another person; and the act described under subdivision (1), (2) or (3) of this subsection occurred on school or school district property, or in a vehicle that at the time of the act was in the service of a school or school district, or arose as a result of a school or school district-sponsored activity.</p>

MO Title 38 Code §	Code Language
	2. Assault while on school property is a class D felony.
565.081	<p>Assault of a law enforcement officer, emergency personnel, or probation and parole officer in the first degree, definition, penalty.</p> <p>1. A person commits the crime of assault of a law enforcement officer, emergency personnel, or probation and parole officer in the first degree if such person attempts to kill or knowingly causes or attempts to cause serious physical injury to a law enforcement officer or emergency personnel.</p> <p>2. As used in this section, "emergency personnel" means any paid or volunteer firefighter, emergency room or trauma center personnel, or emergency medical technician as defined in subdivisions (15), (16), and (17) of section 190.100, RSMo.</p> <p>3. Assault of a law enforcement officer, emergency personnel, or probation and parole officer in the first degree is a class A felony.</p>
565.082	<p>Assault of a law enforcement officer, emergency personnel, or probation and parole officer in the second degree, definition, penalty.</p> <p>1. A person commits the crime of assault of a law enforcement officer, emergency personnel, or probation and parole officer in the second degree if such person:</p> <ul style="list-style-type: none"> (1) Knowingly causes or attempts to cause physical injury to a law enforcement officer, emergency personnel, or probation and parole officer by means of a deadly weapon or dangerous instrument; (2) Knowingly causes or attempts to cause physical injury to a law enforcement officer, emergency personnel, or probation and parole officer by means other than a deadly weapon or dangerous instrument; (3) Recklessly causes serious physical injury to a law enforcement officer, emergency personnel, or probation and parole officer; or (4) While in an intoxicated condition or under the influence of controlled substances or drugs, operates a motor vehicle in this state and when so operating, acts with criminal negligence to cause physical injury to a law enforcement officer, emergency personnel, or probation and parole officer; (5) Acts with criminal negligence to cause physical injury to a law enforcement officer, emergency personnel, or probation and parole officer by means of a deadly weapon or dangerous instrument; (6) Purposely or recklessly places a law enforcement officer, emergency personnel, or probation and parole officer in apprehension of immediate serious physical injury; or (7) Acts with criminal negligence to create a substantial risk of death or serious physical injury to a law enforcement officer, emergency personnel, or probation and parole officer. <p>2. As used in this section, "emergency personnel" means any paid or</p>

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	<p>volunteer firefighter, emergency room or trauma center personnel, or emergency medical technician as defined in subdivisions (15), (16), and (17) of section 190.100, RSMo.</p> <p>3. Assault of a law enforcement officer, emergency personnel, or probation and parole officer in the second degree is a class B felony unless committed pursuant to subdivision (2), (5), (6), or (7) of subsection 1 of this section in which case it is a class C felony.</p>
565.083	<p>Assault of a law enforcement officer, emergency personnel, or probation and parole officer in the third degree, definition, penalty.</p> <p>1. A person commits the crime of assault of a law enforcement officer, emergency personnel, or probation and parole officer in the third degree if:</p> <ul style="list-style-type: none"> (1) Such person recklessly causes physical injury to a law enforcement officer, emergency personnel, or probation and parole officer; (2) Such person purposely places a law enforcement officer, emergency personnel, or probation and parole officer in apprehension of immediate physical injury; (3) Such person knowingly causes or attempts to cause physical contact with a law enforcement officer, emergency personnel, or probation and parole officer without the consent of the law enforcement officer or emergency personnel. <p>2. As used in this section, "emergency personnel" means any paid or volunteer firefighter, emergency room or trauma center personnel, or emergency medical technician as defined in subdivisions (15), (16), and (17) of section 190.100, RSMo.</p> <p>3. Assault of a law enforcement officer, emergency personnel, or probation and parole officer in the third degree is a class A misdemeanor.</p>
568.045	<p>Endangering the welfare of a child in the first degree, penalties.</p> <p>1. A person commits the crime of endangering the welfare of a child in the first degree if:</p> <ul style="list-style-type: none"> (1) The person knowingly acts in a manner that creates a substantial risk to the life, body, or health of a child less than seventeen years old; or (2) The person knowingly engages in sexual conduct with a person under the age of seventeen years over whom the person is a parent, guardian, or otherwise charged with the care and custody; (3) The person knowingly encourages, aids or causes a child less than seventeen years of age to engage in any conduct which violates the provisions of chapter 195, RSMo; (4) Such person enlists the aid, either through payment or coercion, of a person less than seventeen years of age to unlawfully manufacture, compound, produce, prepare, sell, transport, test or analyze amphetamine or methamphetamine or any of their analogues, or to

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	<p>obtain any material used to manufacture, compound, produce, prepare, test or analyze amphetamine or methamphetamine or any of their analogues; or</p> <p>(5) Such person, in the presence of a person less than seventeen years of age or in a residence where a person less than seventeen years of age resides, unlawfully manufactures, or attempts to manufacture compounds, produces, prepares, sells, transports, tests or analyzes amphetamine or methamphetamine or any of their analogues.</p> <p>2. Endangering the welfare of a child in the first degree is a class C felony unless the offense is committed as part of a ritual or ceremony, or except on a second or subsequent offense, in which case the crime is a class B felony.</p>
568.050	<p>Endangering the welfare of a child in the second degree.</p> <p>1. A person commits the crime of endangering the welfare of a child in the second degree if:</p> <p>(1) He or she with criminal negligence acts in a manner that creates a substantial risk to the life, body or health of a child less than seventeen years old; or</p> <p>(2) He or she knowingly encourages, aids or causes a child less than seventeen years old to engage in any conduct which causes or tends to cause the child to come within the provisions of paragraph (d) of subdivision (2) of subsection 1 or subdivision (3) of subsection 1 of section 211.031, RSMo; or</p> <p>(3) Being a parent, guardian or other person legally charged with the care or custody of a child less than seventeen years old, he or she recklessly fails or refuses to exercise reasonable diligence in the care or control of such child to prevent him from coming within the provisions of paragraph (c) of subdivision (1) of subsection 1 or paragraph (d) of subdivision (2) of subsection 1 or subdivision (3) of subsection 1 of section 211.031, RSMo; or</p> <p>(4) He or she knowingly encourages, aids or causes a child less than seventeen years of age to enter into any room, building or other structure which is a public nuisance as defined in section 195.130, RSMo; or</p> <p>(5) He or she operates a vehicle in violation of subdivision (2) or (3) of subsection 1 of section 565.024, RSMo, subdivision (4) of subsection 1 of section 565.060, RSMo, section 577.010, RSMo, or section 577.012, RSMo, while a child less than seventeen years old is present in the vehicle.</p> <p>2. Nothing in this section shall be construed to mean the welfare of a child is endangered for the sole reason that he or she is being provided nonmedical remedial treatment recognized and permitted under the laws of this state.</p> <p>3. Endangering the welfare of a child in the second degree is a class A misdemeanor unless the offense is committed as part of a ritual or ceremony, in which case the crime is a class D felony.</p>

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568.060	<p>Abuse of a child, penalty.</p> <p>1. A person commits the crime of abuse of a child if such person:</p> <p>(1) Knowingly inflicts cruel and inhuman punishment upon a child less than seventeen years old; or</p> <p>(2) Photographs or films a child less than eighteen years old engaging in a prohibited sexual act or in the simulation of such an act or who causes or knowingly permits a child to engage in a prohibited sexual act or in the simulation of such an act for the purpose of photographing or filming the act.</p> <p>2. As used in this section "prohibited sexual act" means any of the following, whether performed or engaged in either with any other person or alone: sexual or anal intercourse, masturbation, bestiality, sadism, masochism, fetishism, fellatio, cunnilingus, any other sexual activity or nudity, if such nudity is to be depicted for the purpose of sexual stimulation or gratification of any individual who may view such depiction.</p> <p>3. Abuse of a child is a class C felony, unless:</p> <p>(1) In the course thereof the person inflicts serious emotional injury on the child, or the offense is committed as part of a ritual or ceremony in which case the crime is a class B felony; or</p> <p>(2) A child dies as a result of injuries sustained from conduct chargeable pursuant to the provisions of this section, in which case the crime is a class A felony.</p> <p>4. As used in this section, the word "fetishism" means a condition in which erotic feelings are excited by an object or body part whose presence is psychologically necessary for sexual stimulation or gratification.</p>
§ 566.135	<p>Defendant may be tested for various sexually transmitted diseases, when</p> <p>1. Pursuant to a motion filed by the prosecuting attorney or circuit attorney with notice given to the defense attorney and for good cause shown, in any criminal case in which a defendant has been charged by the prosecuting attorney's office or circuit attorney's office with any offense under this chapter or pursuant to section 575.150, 567.020, 565.050, 565.060, 565.070, 565.072, 565.073, 565.074, 565.075, 565.081, 565.082, 565.083, 568.045, 568.050, or 568.060, RSMo, or paragraph (a), (b), or (c), of subdivision (2) of subsection 1 of section 191.677, RSMo, the court may order that the defendant be conveyed to a state-, city-, or county-operated HIV clinic for testing for HIV, hepatitis B, hepatitis C, syphilis, gonorrhea, and chlamydia. The results of the defendant's HIV, hepatitis B, hepatitis C, syphilis, gonorrhea, and chlamydia tests shall be released to the victim and his or her parent or legal guardian if the victim is a minor. The results of the defendant's HIV, hepatitis B, hepatitis C, syphilis, gonorrhea, and chlamydia tests shall also be released to the prosecuting attorney or circuit attorney and the</p>

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	<p>defendant's attorney. The state's motion to obtain said testing, the court's order of the same, and the test results shall be sealed in the court file.</p> <p>2. As used in this section, "HIV" means the human immunodeficiency virus that causes acquired immunodeficiency syndrome.</p>
567.020	<p>Prostitution.</p> <p>1. A person commits the crime of prostitution if the person performs an act of prostitution.</p> <p>2. Prostitution is a class B misdemeanor unless the person knew prior to performing the act of prostitution that he or she was infected with HIV in which case prostitution is a class B felony. The use of condoms is not a defense to this crime.</p> <p>3. As used in this section, "HIV" means the human immunodeficiency virus that causes acquired immunodeficiency syndrome.</p> <p>4. The judge may order a drug and alcohol abuse treatment program for any person found guilty of prostitution, either after trial or upon a plea of guilty, before sentencing. For the class B misdemeanor offense, upon the successful completion of such program by the defendant, the court may at its discretion allow the defendant to withdraw the plea of guilty or reverse the verdict and enter a judgment of not guilty. For the class B felony offense, the court shall not allow the defendant to withdraw the plea of guilty or reverse the verdict and enter a judgment of not guilty. The judge, however, has discretion to take into consideration successful completion of a drug or alcohol treatment program in determining the defendant's sentence.</p>
§ 567.120	<p>HIV testing for persons arrested for a prostitution-related offense</p> <p>Any person arrested for a prostitution-related offense, who has a prior conviction of or has pled guilty to a prior prostitution-related offense, may, within the sound discretion of the court, be required to undergo HIV testing as a condition precedent to the issuance of bond for the offense.</p>
§ 575.150	<p>Resisting or interfering with arrest--penalty</p> <p>1. A person commits the crime of resisting or interfering with arrest, detention, or stop if, knowing that a law enforcement officer is making an arrest, or attempting to lawfully detain or stop an individual or vehicle, or the person reasonably should know that a law enforcement officer is making an arrest or attempting to lawfully detain or lawfully stop an individual or vehicle, for the purpose of preventing the officer from effecting the arrest, stop or detention, the person:</p> <p>(1) Resists the arrest, stop or detention of such person by using or threatening the use of violence or physical force or by fleeing from such officer; or</p>

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	<p>(2) Interferes with the arrest, stop or detention of another person by using or threatening the use of violence, physical force or physical interference.</p> <p>2. This section applies to arrests, stops or detentions with or without warrants and to arrests, stops or detentions for any crime, infraction or ordinance violation.</p> <p>3. A person is presumed to be fleeing a vehicle stop if that person continues to operate a motor vehicle after that person has seen or should have seen clearly visible emergency lights or has heard or should have heard an audible signal emanating from the law enforcement vehicle pursuing that person.</p> <p>4. It is no defense to a prosecution pursuant to subsection 1 of this section that the law enforcement officer was acting unlawfully in making the arrest. However, nothing in this section shall be construed to bar civil suits for unlawful arrest.</p> <p>5. Resisting or interfering with an arrest for a felony is a class D felony. Resisting an arrest, detention or stop by fleeing in such a manner that the person fleeing creates a substantial risk of serious physical injury or death to any person is a class D felony; otherwise, resisting or interfering with an arrest, detention or stop in violation of subdivision (1) or (2) of subsection 1 of this section is a class A misdemeanor.</p>

Code of State Regulations – Title 19: Department of Health and Senior Services

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19 CSR 20-26.030	<p>Human Immunodeficiency Virus (HIV) Antibody Test Consultation and Reporting</p> <p>(1) The following definitions shall be used in administering this rule:</p> <p style="padding-left: 20px;">(A) Department means the Missouri Department of Health;</p> <p style="padding-left: 20px;">(B) Health care professional means a state licensed professional involved in direct patient care, other than those persons licensed as physicians under Chapter 334,RSMo; and</p> <p style="padding-left: 20px;">(C) Window period means the interval between exposure to HIV and development of a positive HIV test.</p> <p>(2) Except as provided by 19 CSR 20-26.040, a person performing HIV sampling and pre- and posttest counseling services shall be a health care professional or other public health professional authorized by the Department of Health to provide these services and shall provide current and accurate HIV education and testing information in person to the person tested or his or her legal guardian or custodian. If, after investigation by a department employee, the person responsible for providing pre- and posttest counseling services is determined not to be observing the provisions of this rule, the department shall deny authorization.</p> <p style="padding-left: 20px;">(A) Pretest client-centered counseling shall occur before HIV sampling and include a knowledge and risk assessment of the person to be tested to determine the person’s potential for exposure and infection. The person to be tested shall be asked about his/her basic HIV knowledge, and if such knowledge is lacking, advised of the means of HIV transmission and the meaning of the test results. Informed consent shall be obtained from the person prior to HIV testing, unless otherwise permitted by law. A plan to receive test results shall be established with the person.</p> <p style="padding-left: 20px;">(B) Posttest client-centered counseling shall be provided to all persons tested for HIV infection. It shall include the test results and their significance, risk reduction and prevention information, and referral of the person to medical care and other support services as needed. If the test results are positive, included in the posttest counseling, there shall be a discussion of the client’s responsibility to ensure that sex/needle-sharing partners are advised of their potential exposure to HIV. If the test results are negative, the person tested shall be advised of the window period and possible need for retesting if exposure has occurred within the window period. If the test results are equivocal, the person shall be advised of the need for retesting.</p> <p style="padding-left: 20px;">(C) If the test results are positive, the identity of the person tested along with related clinical and identifying information shall be reported to the department or its designated representative by the person who performs or conducts HIV sampling within three (3) days of receipt of the test results on forms provided by the Department of Health (see Form # 1 incorporated into this rule by reference).</p>

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	<p>(D) Client-centered counseling shall be utilized, as outlined by the current Centers for Disease Control and Prevention <i>HIV Partner Counseling and Referral Services (PCRS) Guidance</i>. This method of counseling shall include the following basic elements: a) encourage client participation by informing, reassuring and developing an atmosphere of trust for the client; b) formulating a realistic PCRS plan to assist HIV negative persons to stay negative and HIV positive persons to access support services; and c) assist the HIV positive person in developing a plan for contact tracing and partner notification services.</p> <p>(E) Sites testing persons under the following situations shall be exempt from reporting the identity of persons testing positive for HIV. These sites shall report HIV positive test results as well as related clinical and other information within three (3) days of receipt of the test results on forms provided by the Department of Health (see Form #1), but shall be exempt from reporting the patient's name and street address, instead a unique patient identifier shall be used:</p> <ol style="list-style-type: none"> 1. Persons tested anonymously at department-designated anonymous testing sites; 2. Persons tested as part of a research project that is approved by an institutional review board and as part of the research, subjects are tested for HIV infection. Written documentation of institutional review board approval must be submitted to the department's Office of Surveillance; or 3. Where prohibited by federal law or regulation. <p>(F) Laboratories which perform HIV testing shall report identifying information as specified in 19 CSR 20-20.080.</p> <p>(G) All persons reported with HIV infection to the department or its designated representative shall be contacted by public health personnel for partner elicitation/notification services according to protocols and procedures established by the department.</p> <p>(H) The following material is incorporated into this rule by reference:</p> <ol style="list-style-type: none"> 1. U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, <i>HIV Partner Counseling and Referral Services (PCRS) Guidance</i>, December 1998.
19 CSR 20-26.040	<p>Physician Human Immunodeficiency Virus (HIV) Test Consultation and Reporting</p> <p>PURPOSE: This rule establishes guidelines specific to physicians and other health care professionals working under physician orders for HIV testing, pretest and posttest consultation (client-centered counseling), and for the reporting of persons diagnosed with HIV infection.</p> <p>(1) The following definitions shall be used in administering this rule:</p> <p>(A) Conduct means to direct, lead, order or undertake to perform or to provide guidance as a licensed physician to a patient;</p> <p>(B) Confirmed HIV infection means the clinical diagnosis and conclusion that a patient is infected with HIV, made in the professional judgment of the physician based upon clinical history, physician examination,</p>

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	<p>diagnostic or laboratory testing or other available clinical information which allows the physician to make clinical and therapeutic decisions based upon this infected status;</p> <p>(C) Department means the Missouri Department of Health;</p> <p>(D) Physician means any person licensed to practice as a physician and surgeon under Chapter 334, RSMo; and (E) Physician's delegated representative means state licensed professional involved in direct patient care, other than those persons licensed as physicians under Chapter 334, RSMo.</p> <p>(2) The physician or the physician's delegated representative shall provide consultation with the patient or his/her legal guardian or custodian prior to conducting HIV testing, and to the patient, guardian or custodian during the reporting of the test results or diagnosis.</p> <p>(A) The physician or the physician's delegated representative shall only be allowed to provide consultation through the use of protocols and standing orders which shall be written, signed and dated by the physician prior to their implementation or, in the case of a hospital, the policies and procedures as approved by the medical staff.</p> <p>(B) The scope of the consultation shall be governed by the physician's professional judgment based on the clinical situation, including the purpose of and need for HIV testing, and shall be at least as comprehensive as the type of consultation provided for other diagnostic tests or procedures.</p> <p>(3) The physician shall report to the department or its designated representative the identity of any person with confirmed HIV infection along with related clinical and identifying information within three (3) days of receipt of the test results on forms provided by the department (see Form #1 following 19 CSR 20-26.030).</p> <p>(4) Physicians testing persons under the following situations shall be exempt from reporting the identity of the person testing positive for HIV. In these situations, physicians shall report HIV positive test results as well as related clinical and other information within three (3) days of receipt of the test results on forms provided by the department (see Form #1 following 19 CSR 20-26.030), but shall be exempt from reporting the patient's name and street address – instead a unique patient identifier shall be used.</p> <p>(A) Persons tested as part of a research project which is approved by an institutional review board and in which, as part of the research, subjects are tested for HIV infection. Written documentation of institutional review board approval must be submitted to the department's Office of Surveillance; or</p>

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	<p>(B) Where prohibited by federal law or regulation.</p> <p>(5) All persons reported with HIV infection to the department or its designated representative can be contacted by public health personnel for partner elicitation/notification services according to protocols and procedures established by the department.</p> <p>(6) Laboratories which perform HIV testing shall report identifying information as specified in 19 CSR 20-20.080.</p>
19 CSR 20-26.050	<p>Preventing Transmission of Human Immunodeficiency Virus (HIV) and Hepatitis B Virus (HBV) from Health Care Workers to Patients</p> <p>PURPOSE: This rule establishes training requirements relating to the prevention of transmission of human immunodeficiency virus, hepatitis B virus and other bloodborne pathogens from infected health care workers to patients as defined in section 191.694, RSMo.</p> <p>(1) The following definitions shall be used in the interpretation of this rule:</p> <p>(A) Community-based means practice in any clinic, group practice or solo practice not licensed under Chapters 197 and 198, RSMo where health care, including dentistry and podiatry, is provided;</p> <p>(B) Department means the Missouri Department of Health;</p> <p>(C) Director means the director of the department or his/her designee;</p> <p>(D) Employed means to be professionally affiliated with a facility either by contract, direct employment or extension of professional privileges;</p> <p>(E) HBV means hepatitis B virus;</p> <p>(F) Health care facilities means those facilities licensed under Chapters 197 and 198, RSMo;</p> <p>(G) Health care professional means a member of any of the professional groups regulated by Chapters 330, 332 and 335, RSMo, and sections 334.010-334.265, RSMo;</p> <p>(H) HIV means human immunodeficiency virus; and</p> <p>(I) Invasive procedures shall be defined as in 191.650(9), RSMo. Phlebotomy and insertion of intravenous lines which do not involve surgical incision are not considered invasive procedures.</p> <p>(2) Health care professionals in both health care facility-based and community-based practice settings shall adhere to the training requirements contained in section 191.694, RSMo. The department shall</p>

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	<p>investigate complaints of noncompliance in facilitybased practice settings. Complaints of noncompliance in community-based practice settings shall be referred to the appropriate licensing authority.</p> <p>(3) Health care professionals performing invasive procedures who do not receive training in a health care facility regarding infection control procedures, universal precautions and prevention of percutaneous injuries shall obtain that training elsewhere on an annual basis. Training shall be in compliance with Occupational Safety and Health Administration (OSHA) requirements in 29 CFR 1910.1030. Training shall be also be in compliance with section 191.694, RSMo and with recommendations published by the Centers for Disease Control and Prevention in the <i>Morbidity and Mortality Weekly Report: Recommendations for Prevention of HIV Transmission in Health-Care Settings, August 21, 1987; Update: Universal Precautions for Prevention of Transmission of Human Immunodeficiency Virus, Hepatitis B Virus, and Other Bloodborne Pathogens in Health-Care Settings, June 24, 1988; and Guidelines for Prevention of Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Health-Care and Public-Safety Workers, June 23, 1989</i>. Documents that validate the completion of that training shall be maintained by the health care professional for a period of three (3) years and shall be made available to the department upon request.</p>
19 CSR 20-26.060	<p>Voluntary Evaluation for Human Immunodeficiency Virus (HIV)- and Hepatitis B Virus (HBV)- Infected Health Care Professionals Who Perform Invasive Procedures</p> <p>PURPOSE: This rule establishes procedures for the voluntary evaluation of human immunodeficiency virus- and hepatitis B virusinfected health care professionals who perform invasive procedures in order to determine whether practice restrictions or limitations should be applied, as defined in section 191.700, RSMo.</p> <p>(1) The definitions in 19 CSR 20-26.050 shall be used in the interpretation of this rule.</p> <p>(2) Any health care professional who performs invasive procedures is advised to know his/her human immunodeficiency virus (HIV) antibody status and hepatitis B surface antigen (HBsAg) status. If HBsAg is present, the presence or absence of hepatitis B e antigen (HBeAg) shall be determined. If a significant occupational exposure occurs which could place the health care professional at risk of acquiring HIV or hepatitis B virus (HBV) infection, appropriate post-exposure evaluation should be undertaken.</p> <p>(3) HIV- or HBV-infected health care professionals who perform invasive procedures may be voluntarily evaluated by an expert review panel appointed by the department according to section 191.700, RSMo. This panel shall follow subsections (3)(A)–(P) of this rule.</p>

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	<p>(A) Health care professionals infected with HIV or HBV who perform invasive procedures and who choose to be evaluated by an expert review panel appointed by the department according to section 191.700, RSMo shall apply for the evaluation in writing to the director. Directors of health care facilities (chief administrative officers or equivalents) allowed by 191.700.2(1), RSMo to seek evaluation of infected health care professionals who perform invasive procedures shall, with the consent of the infected health care professional and after consultation with the professional's private physician, apply in writing to the director of the Department of Health.</p> <p>(B) Upon receipt of a written request for evaluation, the director shall appoint an expert review panel by utilizing the following criteria:</p> <ol style="list-style-type: none"> 1. The panel shall include those individuals specified by 191.700.2(2)(a)-(d), RSMo and may include additional individuals if the director determines this is necessary; and 2. The director shall seek input from appropriate professional organizations in making his/her appointments. <p>(C) The subject of the evaluation shall provide the director with a list of all health care facilities and community-based practices, regardless of location, where the subject performs invasive procedures.</p> <p>(D) The expert review panel shall utilize the following to evaluate the health care professional's practice:</p> <ol style="list-style-type: none"> 1. Criteria specified in 191.700.2(3), RSMo; 2. Verification of the health care professional's licensure status; 3. Current, scientific evidence that is available; and 4. Panel members' professional judgments. <p>(E) Panel members shall be subject to the requirements of section 191.656, RSMo regarding the confidentiality of information on an HIV-infected health care professional's infection status.</p> <p>(F) The health care professional shall be allowed to appear before the panel and present any information which s/he believes to be pertinent to the panel's task. The health care professional's personal physician(s) and any other individual(s) the health care professional believes can provide pertinent input into the process shall be allowed to appear before the panel.</p> <p>(G) The panel may recommend that restrictions or limitations be placed on the practice of the health care professional.</p>

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	<p>(H) The panel shall require the health care professional to notify any affected patient in a timely manner whenever a parenteral or mucous membrane exposure to the health care professional's blood occurs.</p> <p>(I) The panel's findings and recommendations shall be conveyed in writing to the health care professional and to the director.</p> <p>(J) The director shall disclose to the chief administrative officer or equivalent individual in each health care facility or community based practice where the health care professional is performing invasive procedures any restrictions or limitations placed on his/her practice by the panel.</p> <p>(K) If the health care professional seeks to affiliate with an additional health care facility or community-based practice, regardless of its location, where s/he will be performing invasive procedures, s/he shall disclose to the chief administrative officer or equivalent individual in that facility or practice the findings of the review panel, and any restrictions or limitations placed on his/her practice by the panel, prior to the affiliation and the provision of patient care. S/he shall also advise the department of the new practice location.</p> <p>(L) If the health care professional plans to begin performing invasive procedures at a health care facility or community-based practice where s/he is currently affiliated but not presently performing those procedures, s/he shall disclose to the chief administrative officer or equivalent individual in that facility or practice the findings of the review panel, and any restrictions or limitations placed on his/her practice by the panel, prior to the performance of any invasive procedures, and report his/her intention to begin performing invasive procedures in writing to the director prior to beginning to perform these procedures.</p> <p>(M) If the review panel places restrictions or limitations on the health care professional's practice, it shall be the responsibility of each health care facility where s/he is employed and performing invasive procedures to monitor him/her for compliance at appropriate intervals, at least annually, based on his/her medical status and the types and frequencies of invasive procedures s/he performs. If a facility finds the health care professional to be noncompliant, it shall report this in writing to the appropriate state board, as provided under Chapters 330, 332, 334 or 335, RSMo, and to the director.</p> <p>(N) If the review panel places restrictions or limitations on the practice of a health care professional who performs invasive procedures in a community-based setting, it shall be the responsibility of the department to monitor him/her for compliance in this setting at appropriate intervals, at least annually, based on his/her medical status and the types and frequencies of invasive procedures s/he performs. If the department finds the health care professional to be noncompliant, it shall report this in writing to the appropriate state board, as provided under Chapters</p>

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	<p>330, 332, 334 or 335, RSMo, and to the director.</p> <p>(O) If the director becomes aware that the infected health care professional is noncompliant with practice restrictions or limitations at any location where s/he is performing invasive procedures, the director shall report this noncompliance to the chief administrative officer or equivalent individual in each health care facility and community-based practice where the health care professional performs invasive procedures.</p> <p>(P) The panel shall require, as necessary, that the infected health care professional undergo periodic reviews to determine if the decision to place or not to place restrictions or limitations on his/her practice needs to be modified because of changes in his/her medical condition or some other relevant circumstance. If a review results in the panel making such a modification, this modification shall be conveyed in writing to the health care professional and the director. If the modification results in restrictions or limitations, or further restrictions or limitations, being placed on the health care professional, the director shall disclose this modification to the chief administrative officer or equivalent individual in each health care facility or community-based practice where the health care professional is performing invasive procedures.</p> <p>(Q) If restrictions or limitations have been placed on a health care professional's practice by the panel and if later there is a change in the individual's medical condition or some other relevant circumstance, and as a result s/he believes that the restrictions or limitations should be modified, s/he may request in writing to the director that the panel consider such a modification. A similar written request may also be made by the director or chief administrative officer of a health care facility with the consent of the infected health care professional and after consultation with his/her private physician. The panel shall review the information and determine whether modification is necessary. If a modification is made, this shall be conveyed in writing to the health care professional and the director. If the modification results in further restrictions or limitations being placed on the health care professional, the director shall disclose this modification to the chief administrative officer or equivalent individual in each health care facility or community-based practice where the health care professional is performing invasive procedures.</p> <p>(4) As described in 191.700.2(5)(d), RSMo, a health care facility peer review panel may evaluate HIV- or HBV-infected health care professionals who perform invasive procedures. This evaluation process may be accessed directly by an infected health care professional, or by the director of a health care facility with the consent of the infected health care professional and after consultation with his/her private physician. This evaluation shall take place as follows:</p> <p>(A) If a health care facility regulated under sections 197.010-197.120, RSMo maintains or establishes an internal peer review panel for the evaluation of HIV- or HBV-infected health care professionals who perform</p>

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	<p>invasive procedures, this panel shall –</p> <ol style="list-style-type: none"> 1. Maintain the confidentiality of the infected health care professional. Panel members shall be subject to the requirements of section 191.656, RSMo regarding the confidentiality of information on an HIV-infected health care professional's infection status; 2. Conduct an evaluation of the infected health care professional and his/her practice. This evaluation and any recommendations shall be based on the premise that HIV or HBV infection alone does not justify limiting the health care professional's duties; 3. Allow the health care professional to appear before the peer review panel and present any information which s/he believes to be pertinent to the panel's task. The health care professional's personal physician(s), as well as any other individual(s) the health care professional believes can provide input into the process, shall be allowed to appear before the panel; 4. Establish, utilizing the criteria specified in subsection (3)(D) of this rule, whether restrictions or limitations shall be placed on the practice of the health care professional. If the panel is uncertain about whether a specific procedure may pose some risk of HIV or HBV transmission, it may recommend that this procedure be performed only after the patient has been informed of the health care professional's infection status; 5. Require the health care professional to notify any affected patient in a timely manner whenever a parenteral or mucous membrane exposure to the health care professional's blood occurs; 6. Report its findings and recommendations in writing to the health care professional; 7. Report its findings and recommendations in writing to the director including how the evaluation process was conducted. The department shall review the report to determine concurrence with 191.700.2(5)(d), RSMo and this rule. Results of the department's review shall be reported back to the facility. In the event the health care professional later seeks an evaluation by a department-appointed panel, the findings and recommendations of the facility's peer review panel shall be included as part of this evaluation; and 8. Require, as necessary, that the infected health care professional undergo periodic reviews to determine if the decision to place or not to place restrictions or limitations on his/her practice needs to be modified because of changes in his/her medical condition or some other relevant circumstance. If a review results in the panel making such a modification, this modification shall be conveyed in writing to the health care professional and the director; and

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	<p>(B) When a facility's internal peer review panel conducts a review in concurrence with 191.700.2(5)(d), RSMo and this rule, the following shall be performed:</p> <ol style="list-style-type: none"> 1. The infected health care professional shall provide a list to the director of all other health care facilities and community-based practices, regardless of location, where s/he performs invasive procedures. The director shall disclose to the chief administrative officer or equivalent individual in each of these other facilities and practices any restrictions or limitations placed on the health care professional's practice by the panel; 2. If the health care professional seeks to affiliate with an additional health care facility or community-based practice, regardless of its location, where s/he will be performing invasive procedures, s/he shall disclose to the chief administrative officer or equivalent individual in that facility or practice the findings of the peer review panel, and any restrictions or limitations placed on his/her practice by the panel, prior to the affiliation and the provision of patient care, and notify the department of the new practice location; 3. If the health care professional plans to begin performing invasive procedures at a health care facility or community-based practice where s/he is currently affiliated but not presently performing those procedures, s/he shall disclose to the director or chief administrative officer in that facility or practice the findings of the peer review panel, and any restrictions or limitations placed on his/her practice by the panel, prior to the performance of any invasive procedures, and report the change in practice to the department; 4. It shall be the responsibility of each health care facility where the health care professional is employed and performing invasive procedures to monitor him/her for compliance with the practice restrictions or limitations at appropriate intervals, at least annually, based on his/her medical status and the types and frequencies of invasive procedures s/he performs. If a facility finds the health care professional to be noncompliant, it shall report this in writing to the appropriate state board, as provided under Chapters 330, 332, 334 or 335, RSMo, and to the director; 5. If the health care professional also performs invasive procedures in a community-based setting, it shall be the responsibility of the department to monitor him/her for compliance with the restrictions or limitations in this setting at appropriate intervals, at least annually, based on his/her medical status and the types and frequencies of invasive procedures s/he performs. If the department finds the health care professional to be noncompliant, it shall report this in writing to the appropriate state board, as provided under Chapters 330, 332, 334 or 335, RSMo, and to the director;

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	<p>6. If the director becomes aware that the infected health care professional is noncompliant with practice restrictions or limitations at any location where s/he is performing invasive procedures, the director shall report this noncompliance to the director or chief administrator in each health care facility and community-based practice where the health care professional performs invasive procedures;</p> <p>7. If the peer review panel, as a result of a periodic review of the infected health care professional's status, makes a modification in its recommendations that results in restrictions or limitations, or further restrictions or limitations, being placed on the health care professional, the director shall disclose this modification to the chief administrative officer or equivalent individual in any other health care facilities or community-based practices where the health care professional is performing invasive procedures; and</p> <p>8. If restrictions or limitations have been placed on a health care professional's practice by the peer review panel and if later there is a change in the health care professional's medical condition or some other relevant circumstance, and as a result s/he believes that the restrictions or limitations should be modified, s/he may request that the panel consider the modification. The panel shall review the pertinent evidence and determine whether such modification shall be made. If a modification is made, this shall be conveyed in writing to the health care professional and the director. If the modification results in further restrictions or limitations being placed on the health care professional, the director shall disclose the modification to the chief administrative officer or equivalent individual in any other health care facilities or community based practices where the health care professional is performing invasive procedures.</p>
19 CSR 20-26.070	<p>Notification of Results of Court-Ordered Human Immunodeficiency Virus (HIV) Testing of Sexual Offenders</p> <p>PURPOSE: This rule establishes the procedure for notifying victims and jail or correctional facility administrators and the offenders of results when sexual offenders undergo court-ordered testing for human immunodeficiency virus.</p> <p>(1) If a court orders a person to undergo HIV testing under section 191.663, RSMo, the following information shall be reported by the court to the Section of STD/HIV/AIDS Prevention and Care Services:</p> <p>(A) The identity of the person to be tested;</p> <p>(B) The name and address of the facility which will submit the sample for testing;</p> <p>(C) The name and address of the laboratory which will conduct the testing, if known;</p>

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	<p>(D) The name, address and telephone number of each victim who has a right to access the HIV test results under section 191.663, RSMo; and</p> <p>(E) The name, address and telephone number of the administrator of the jail or correctional facility where the sexual offender is confined.</p> <p>(2) All results of HIV testing performed under the provisions of section 191.663, RSMo, shall be reported by the laboratory performing the test to the Office of Surveillance.</p> <p>(3) Section of STD/HIV/AIDS Prevention and Care Services counseling and intervention staff shall convey the results of the testing, along with appropriate counseling and any necessary referral assistance, to each victim.</p> <p>(4) Section of STD/HIV/AIDS Prevention and Care Services staff shall convey the results of the testing, along with any necessary educational information relative to those results, to the administrator of the jail or correctional facility in which the sexual offender is confined.</p> <p>(5) Section of STD/HIV/AIDS Prevention and Care Services staff shall ensure that the results of the HIV testing are conveyed to the sexual offender appropriately and confidentially.</p>
19 CSR 25-33.010	<p>Approval of Laboratories for the Performance of Serologic Tests for Human Immunodeficiency Virus Antibodies</p> <p>(1) The director of a laboratory seeking Department of Health and Senior Services (DHSS) approval to perform serologic tests for detection of the Human Immunodeficiency Virus (HIV) antibodies shall make written application on form Lab 125, which is incorporated by reference, to the director, State Public Health Laboratory, DHSS.</p> <p>(A) Hospitals licensed according to Chapter 197, RSMo shall be considered to be in compliance with departmental rules governing serologic tests for detection of HIV antibodies.</p> <p>(B) In addition to applying for approval, the laboratory shall be in compliance with the Clinical Laboratory Improvement Amendments of 1988 (CLIA 88). A copy of the currently valid CLIA certificate shall be initially submitted to the director, State Public Health Laboratory, DHSS to obtain DHSS approval.</p> <p>(C) All laboratory testing shall be conducted at the address given when application for the approval is made. Written notice of change of address shall be given to DHSS prior to actually moving the testing facilities.</p> <p>(2) DHSS shall issue a certificate of approval to a laboratory meeting the requirements of this rule. The certificate is effective until revoked.</p> <p>(3) A certificate of approval may be revoked when a participating laboratory discontinues its testing services or fails to meet the requirements of CLIA 88 which relate to serologic testing for antibodies</p>

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	to HIV. Compliance will be monitored by Department of Health and Senior Services, Bureau of Health Facility Regulation, CLIA program.
19 CSR 30-40.047	<p>Mandatory Notice to Emergency Response Personnel of Possible Exposure to Communicable Diseases</p> <p>PURPOSE: This rule establishes an inquiry and notice procedure to be followed by receiving medical facility personnel concerning the possibility of exposure to communicable diseases by emergency response personnel and good samaritans.</p> <p>(1) The following definitions shall be used in the interpretation of this rule: droplet nuclei usually less than ten (10) micrometers in diameter, which float on air currents and are capable of being suspended in air for a considerable period of time and are not to be confused with droplet as defined in subsection (1)(F) of this rule;</p> <p>§ 19204-B agent through contact with an infected person’s blood or other body fluids;</p> <p>(D) Communicable disease means an infectious disease transmitted by a significant exposure as defined in subsections (2)(A) - (E) of this rule, and examples of likely communicable diseases for investigation for possible § 19204-B significant exposures are:</p> <p>2. Bloodborne diseases - Hepatitis B and C and human immunodeficiency virus (HIV) infection including acquired immunodeficiency syndrome (AIDS);</p> <p>(E) Designated officer means a city or county health department officer, or his/her designee, appointed by the director of the Department of Health or his/her designee. The designated officer’s designee may be, at local option, a person associated with an ambulance service, fire department or other enforcement agency; the designated officer may appoint multiple designees as needed;</p> <p>(H) Emergency means a sudden or unforeseen situation or occurrence that requires immediate action to save life or to prevent suffering or disability; the determination of the existence of the emergency can be made either by the patient/victim or by any emergency response personnel (ERP) or good samaritan on the scene;</p> <p>(I) Emergency response personnel (ERP) means firefighters, law enforcement officers, paramedics, emergency medical technicians first responders and other persons including employees of legally organized and recognized volunteer organizations - regardless of whether the individuals receive compensation - who, in the course of professional duties, respond to emergencies;</p>

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	<p>(J) Exposure or significant exposure means an ERP or good samaritan has experienced a possible risk of becoming infected with a communicable disease(s) including those identified in paragraphs (1)(D)1.- 4. of this rule by a means identified in subsections (2)(A)-(E) of this rule;</p> <p>(K) Good samaritans mean individuals that are not ERPs that provide emergency medical assistance or aid until ERPs arrive;</p> <p>(L) Medical facility means a health care facility licensed under Chapter 197, RSMo or a state medical facility;</p> <p>(3) The designated officer shall have the following duties:</p> <p>(A) Collecting, upon request, facts surrounding possible exposure of an ERP or good samaritan to a communicable disease or infection;</p> <p>(B) Contacting facilities that received patients who potentially exposed ERPs or good samaritans to ascertain if a determination has been made as to whether the patient has a communicable disease or infection and to ascertain the results of that determination;</p> <p>(C) Notifying the ERP or good Samaritan as to whether s/he has been exposed within forty-eight (48) hours of receiving the patient's diagnosis report, medical information or necessary test results and providing information regarding the exposure, importance of appropriate medical follow-up and confidentiality; and</p> <p>(D) Upon request of the receiving medical facility or coroner/medical examiner's office, notifying the ERP or good samaritan of potential exposure to a communicable disease.</p> <p>(1)(D)1.-4. of this rule by a means identified in subsections (2)(A)-(E) of this rule, shall provide information directly to the affected ERP. In the case of a good samaritan the designated officer or his/her designee shall provide the information directly to the good samaritan. All information shall be in a manner that protects the identity and confidentiality of the possibly infected individual and the ERP or good samaritan.</p>

Title 20: Department of Insurance, Financial Institutions and Professional Registration
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20 CSR 400-2.100	<p>Standards for HIV testing by insurers, health service corporations and health maintenance organizations</p> <p>(1) Definitions.</p> <p>(A) Applicant shall mean the proposed insured.</p> <p>(B) HIV means the human immunodeficiency virus that causes acquired immunodeficiency syndrome (AIDS).</p> <p>(C) HIV testing shall mean the performing of a serological test or other tests upon a biological specimen to determine the presence of HIV or its antibodies in the specimen.</p> <p>(D) Policy shall mean all life and health insurance policies or contracts including both individual and group coverages.</p> <p>(2) Whenever an applicant is requested to submit to HIV testing in connection with an application for an insurance policy, the insurer shall—</p> <p>(A) Obtain written informed consent from the applicant;</p> <p>(B) Reveal the use of the test to the applicant;</p> <p>(C) Provide the applicant with basic information on the means of HIV transmission, HIV testing methodology, the meaning of the results for the specific test(s) to be utilized, behaviors necessary to reduce the risk of infection with HIV, and sources of further information on HIV infection/aids such as the National AIDS Hotline or the Missouri AIDS Hotline;</p> <p>(D) Make all reasonable efforts to obtain from the applicant the name and address of a physician to which HIV testing results that are other than normal will be reported;</p> <p>(E) Ensure that an initial positive HIV screening test is followed by a confirmatory test, for example, following the ELISA and Western Blot protocols; and</p> <p>(F) Disclose the HIV test results in accordance with section 191.671, RSMo. If the applicant does not designate a physician, the insurer, health service corporation or health maintenance organization shall disclose the identity of any applicant residing in Missouri having a confirmed positive HIV test result to the Missouri Department of Health—Bureau of STD/HIV Prevention, P.O. Box 570, Jefferson City, MO 65102. Any disclosure to the Missouri Department of Health shall be made in accordance with</p>

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	<p>procedures acceptable to the Bureau of STD/HIV Prevention.</p> <p>(3) A medical test to determine the presence of HIV virus, its component parts, its antibodies or other evidence of HIV infections, or a medical test for sickness or medical condition derived from this infection shall only be required of or given to a person if the test is based on the person's current medical condition or medical history or triggered by threshold coverage amounts which apply to all persons within the risk class.</p>
20 CSR 400-2.120	<p>Application Questions and Underwriting Practices Relating to HIV Infection</p> <p>(1) Definitions. For the purposes of this rule—</p> <p>(A) AIDS means acquired immunodeficiency syndrome;</p> <p>(B) ARC means AIDS related complex; and</p> <p>(C) HIV means human immunodeficiency virus as these terms from time-to-time may be defined by the Federal Center for Disease Control.</p> <p>(2) Application Questions and Underwriting Practices Relating to HIV Infection.</p> <p>(A) No question shall be used that is designed to determine, or which would aid in determining, the sexual orientation of the applicant.</p> <p>(B) The following provisions govern medical questions relating to HIV infection:</p> <p>1. Questions relating to the applicant's having or having been diagnosed as having HIV infection, including AIDS or ARC, are permissible if the questions are factual and designed to establish the existence of the condition. For example, insurers shall not ask such questions as "Do you believe you may have . . . ?" or "Have you had any indications of . . . ?", but insurers may ask "Have you been positively diagnosed or treated for . . . ?"; and</p> <p>2. Questions relating to HIV infection, including AIDS and ARC, may be asked, but only if questions related to other high risk medical conditions also are asked. The questions must be presented and asked, and the answers used, in the same manner as other questions and their answers relating to other high risk medical conditions.</p> <p>(C) Questions relating to medical and other factual matters that are intended to reveal the possible existence of a medical condition are permissible if they are not used to determine, or which would aid in determining, the sexual orientation of the applicant and if the applicant is given an opportunity to provide a detailed explanation for any affirmative</p>

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	<p>answers given in the application. For example, insurers may ask such questions as, "Have you had chronic cough, significant weight loss, chronic fatigue, diarrhea, enlarged glands . . . ?" The questions must pertain to a finite period of time preceding completion of the application, not to exceed ten (10) years. The finite period does not apply to questions concerning prior diagnosis, treatment or testing.</p> <p>(D) Questions relating to the applicant's having, or having been diagnosed as having, or having been advised to seek treatment for, a sexually transmitted disease are permissible.</p> <p>(E) Neither the marital status, the living arrangements, the occupation, the gender, the medical history, the beneficiary designation nor the zip code or other territorial classification of an applicant may be used to rate an applicant or to determine, or aid in determining, the applicant's sexual orientation.</p> <p>(F) For purposes of rating an applicant for health and life insurance, an insurer may impose territorial rates, but only if the rates are based on sound actuarial principles and are related to actual or reasonably anticipated experience. If an insurer imposes territorial rates, it shall first provide the director with satisfactory actuarial evidence to support these rates.</p> <p>(G) No adverse underwriting decision shall be based on information that the applicant has demonstrated AIDS, ARC or other HIV infection-related concerns by seeking counseling. This section does not apply to an applicant seeking treatment or counseling after having been positively diagnosed as being infected with the HIV virus.</p>