

Utah

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April 8, 2011

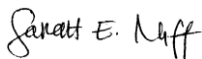
To the Reader:

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

&



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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

April 8, 2011

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>

Utah

A Quick Reference Guide for Clinicians to Utah HIV Testing Laws

April 8, 2011

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

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

Informed Consent

- No specific provisions regarding consent were found.

Counseling

- No specific provisions regarding counseling were found.

Provisos of Testing

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

Disclosure

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

Minor/Adolescent Testing

- Minors may consent to STD, including HIV, testing.

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Perinatal Quick Reference Guide:

A Guide to Utah Perinatal HIV Testing Laws for Clinicians

April 8, 2011

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

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

Prenatal

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

Labor & Delivery

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

Neonatal

- No specific provisions regarding neonatal testing were found.

Other

- N/A

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State Policies Relating to HIV Testing, 2011

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Utah Code Annotated [UCA]

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Utah Administrative Rules [UAR]

Titles R380-R444: Health..... Pages 24-39

	Policy Category	Type	Section Code(s)	
RESTRICTIONS/MANDATES	Restrictions on use of HIV test	Insurance companies may not administer HIV testing on unfair basis	UAR R590-132-3	
	Mandatory testing within the criminal justice system	All inmates		UCA § 64-13-36
		Alleged sex offenders		UCA § 26-1-30 UCA § 76-5-502
		Potential transmission to victim upon request of victim		UCA § 76-5-502 UCA § 76-5-503
		Persons convicted of prostitution charges		UCA § 76-10-1311 UCA § 76-10-1302
		Persons convicted of patronizing a prostitute		UCA § 76-10-1311 UCA § 76-10-1303
		Persons convicted of sexual solicitation		UCA § 76-10-1311 UCA § 76-10-1313
		Mandatory testing of minors indicted for a sexual offense; HIV tests may not be taken of a minor younger than 14 years of age without the consent of the court.		UCA §78A-6-1104
		Minors in custody for a sexual offense upon the request of the victim or the parent or guardian of a child victim		UCA §78A-6-1104

	Mandatory testing outside of the criminal justice system	Occupational exposure – EMS or first aid volunteer may request testing of source patient	UCA § 78B-8-402 UCA § 78B-8-405 UAR R388-801-4	
		Testing and counseling of minors exposed to someone testing positive	UAR R512-32-9	
		Professional boxers	UCA § 63C-11-309 UCA § 63C-11-315	
PRE-TESTING	Mandatory offering of HIV/AIDS information and/or testing	HIV/AIDS information as part of human sexuality education for public schools	UAR R277-474-1 UAR R277-474-2 UAR R277-474-3 UAR R277-474-4 UAR R277-474-5 UAR R277-474-6 UAR R277-474-7	
	Informed consent	Consent required for insurance testing – written release form	UAR R590-132-3	
		Written informed consent of Child and Family Services for children in their custody	UAR R512-32-4	
		Source patient consent required unless patient convicted of a crime, under jurisdiction of Corrections, or is deceased in cases of EMS exposure; SP testing through the opt-out process unless compelled by court.	UAR R612-10-1	
	Counseling requirements	Pre- and post-test counseling for sex offense victims who request testing of an alleged sexual offender	UCA § 76-5-504	
		Post-test counseling must be offered to prisoners	UCA § 64-13-36	
		Pre-test counseling of source patient when testing requested by EMS	UAR R612-10-1	
	Anonymous testing	State department of health may sponsor one pilot anonymous testing site	UCA § 26-6-3.5	
	POST-TESTING	Disclosure/confidentiality	HIV test results confidential, with some exclusions	UCA § 26-6-30
			Partner notification – Department of health will conduct sexual and needle-	UCA § 26-6-3.5 UAR R388-803-4

		sharing partner notification	
		Disclosure to sexual offender of HIV positive results	UCA § 76-10-1312
		Confidentiality and disclosure for children and minors	UAR R512-32-3 UAR R512-32-7 UAR R512-32-8
		Confidentiality for insurance testing	UAR R590-132-6
		Disclosure to EMS by case number in cases of exposure	UAR R612-10-1
	Reporting	HIV diagnoses must be reported – name-based reporting	UAR R388-803-2
		Anonymous testing sites must report prevalence	UCA § 26-6-3.5
	Testing of pregnant women and/or newborns	No related laws found	
	Testing of minors/adolescents	Minors may consent to services for venereal disease, HIV not included	UCA § 26-6-18
		Minors may request and consent to HIV testing	UAR R512-32-4
Rapid HIV testing	No related laws found		
Training and education of health care providers	UDOH consultation for providers of children with HIV	UAR R512-32-6	

Recommended Resources

Utah Code – Statutes and Constitution

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

Utah Administrative Rules

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

Utah Department of Health

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

Title 26: Utah Health Code

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

UT Title 26 Code §	Code Language
	Subsection (4).
§ 26-6-4	<p>Involuntary examination, treatment, isolation, and quarantine.</p> <p>(1) The following individuals or groups of individuals are subject to examination, treatment, quarantine, or isolation under a department order of restriction:</p> <ul style="list-style-type: none"> (a) an individual who is infected or suspected to be infected with a communicable disease that poses a threat to the public health and who does not take action as required by the department or the local health department to prevent spread of the disease; (b) an individual who is contaminated or suspected to be contaminated with an infectious agent that poses a threat to the public health and that could be spread to others if remedial action is not taken; (c) an individual who is in a condition or suspected condition which, if exposed to others, poses a threat to public health, or is in a condition which if treatment is not completed will pose a threat to public health; and (d) an individual who is contaminated or suspected to be contaminated with a chemical or biological agent that poses a threat to the public health and that could be spread to others if remedial action is not taken. <p>(2) If an individual refuses to take action as required by the department or the local health department to prevent the spread of a communicable disease, infectious agent, or contamination, the department or the local health department may order involuntary examination, treatment, quarantine, or isolation of the individual and may petition the district court to order involuntary examination, treatment, quarantine, or isolation in accordance with Title 26, Chapter 6b, Communicable Diseases - Treatment, Isolation, and Quarantine Procedures.</p>
26-6-6	<p>Duty to report individual suspected of having communicable disease.</p> <p>The following shall report to the department or the local health department regarding any individual suffering from or suspected of having a disease that is communicable, as required by department rule:</p> <ul style="list-style-type: none"> (1) health care providers as defined in Section 78B-3-403; (2) facilities licensed under Title 26, Chapter 21, Health Care Facility Licensure and Inspection Act; (3) health care facilities operated by the federal government; (4) mental health facilities; (5) care facilities licensed by the Department of Human Services; (6) nursing homes and other care facilities; (7) dispensaries, clinics, or laboratories that diagnose, test, or otherwise care for individuals who are suffering from a disease suspected of being communicable; (8) individuals who have knowledge of others who have a communicable disease;

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

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

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

Title 26A: Local Health Authorities

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

Title 63C: State Commissions and Councils Code

UT Title 63C Code §	Code Language
§ 63C-11-309	<p>Medical examinations and drug tests</p> <p>(1) The commission shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for medical examinations and drug testing of contestants including provisions under which contestants shall:</p> <p>(a) produce evidence based upon competent laboratory examination that they are HIV negative as a condition of participating as a contestant in any contest;</p> <p>(b) be subject to random drug testing before or after participation in a contest, and sanctions, including barring participation in a contest or withholding a percentage of any purse, that shall be placed against a contestant testing positive for alcohol or any other drug that in the opinion of the commission is inconsistent with the safe and competent participation of that contestant in a contest;</p> <p>(c) be subject to a medical examination by the ringside physician not more than 30 hours before the contest to identify any physical ailment or communicable disease that, in the opinion of the commission or designated commission member, are inconsistent with the safe and competent participation of that contestant in the contest; and</p> <p>(d) be subject to medical testing for communicable diseases as considered necessary by the commission to protect the health, safety, and welfare of the licensees and the public.</p> <p>(2) (a) Medical information concerning a contestant shall be provided by the contestant or medical professional or laboratory.</p> <p>(b) A promoter or manager may not provide to or receive from the commission medical information concerning a contestant.</p>
§ 63C-11-307	<p>Approval to hold contest or promotion -- Bond required.</p> <p>(1) An application to hold a contest or multiple contests as part of a single promotion shall be made by a licensed promoter to the commission on forms provided by the commission.</p> <p>(2) The application shall be accompanied by a contest fee determined by the commission under Section 63J-1-505.</p> <p>(3) (a) The commission may approve or deny approval to hold a contest or promotion permitted under this chapter.</p> <p>(b) Provisional approval under Subsection (3)(a) shall be granted upon a determination by the commission that:</p> <p>(i) the promoter of the contest or promotion is properly licensed;</p> <p>(ii) a bond meeting the requirements of Subsection (6) has been</p>

UT Title 63C Code §	Code Language
	<p>posted by the promoter of the contest or promotion; and (iii) the contest or promotion will be held in accordance with this chapter and rules made under this chapter.</p> <p>(4) (a) Final approval to hold a contest or promotion may not be granted unless the commission receives, not less than seven days before the day of the contest with 10 or more rounds:</p> <ul style="list-style-type: none"> (i) proof of a negative HIV test performed not more than 180 days before the day of the contest for each contestant; (ii) a copy of each contestant's federal identification card; (iii) a copy of a signed contract between each contestant and the promoter for the contest; (iv) a statement specifying the maximum number of rounds of the contest; (v) a statement specifying the site, date, and time of weigh-in; and (vi) the name of the physician selected from among a list of registered and commission-approved ringside physicians who shall act as ringside physician for the contest. <p>(b) Notwithstanding Subsection (4)(a), the commission may approve a contest or promotion if the requirements under Subsection (4)(a) are not met because of unforeseen circumstances beyond the promoter's control.</p> <p>(5) Final approval for a contest under 10 rounds in duration may be granted as determined by the commission after receiving the materials identified in Subsection (4) at a time determined by the commission.</p> <p>(6) An applicant shall post a surety bond or cashier's check with the commission in the greater of \$10,000 or the amount of the purse, providing for forfeiture and disbursement of the proceeds if the applicant fails to comply with:</p> <ul style="list-style-type: none"> (a) the requirements of this chapter; or (b) rules made under this chapter relating to the promotion or conduct of the contest or promotion.

Title 64: State Institutions

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

Title 76: Utah Criminal Code

UT Title 76 Code §	Code Language
§ 76-5-501	<p>Definitions</p> <p>For purposes of this part:</p> <p>(1) "Alleged sexual offender" means a person or a juvenile regarding whom an indictment or an information approved by a judge alleges has committed a sexual offense or an attempted sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses.</p> <p>(2) "Department of Health" means the state Department of Health as defined in Section 26-1-2.</p> <p>(3) "HIV infection" means an indication of Human Immunodeficiency Virus (HIV) infection determined by current medical standards and detected by any of the following:</p> <ul style="list-style-type: none"> (a) presence of antibodies to HIV, verified by a positive "confirmatory" test, such as Western blot or other method approved by the Utah State Health Laboratory. Western blot interpretation will be based on criteria currently recommended by the Association of State and Territorial Public Health Laboratory Directors; (b) presence of HIV antigen; (c) isolation of HIV; or (d) demonstration of HIV proviral DNA. <p>(4) "HIV positive individual" means a person who is HIV positive as determined by the State Health Laboratory.</p> <p>(5) "Local department of health" means the department as defined in Subsection 26A-1-102(5).</p> <p>(6) "Positive" means an indication of the HIV infection as defined in Subsection (3).</p> <p>(7) "Sexual offense" means a violation of state law prohibiting a sexual offense under Title 76, Chapter 5, Part 4.</p> <p>(8) "Test" or "testing" means a test or tests for HIV infection conducted by and in accordance with standards recommended by the Department of Health.</p>
§ 76-5-502	<p>Mandatory testing -- Liability for costs</p> <p>(1) (a) If an indictment or information alleges that a person who is an adult or a juvenile has committed a sexual offense or an attempted sexual offense, the alleged victim of the offense described in the indictment or information may request that the alleged offender against whom the indictment or information is filed be tested to determine whether the alleged offender is an HIV positive individual.</p>

UT Title 76 Code §	Code Language
	<p>(b) If the alleged victim under Subsection (1)(a) has requested that the alleged offender be tested, the alleged offender shall submit to being tested not later than 48 hours after an information or indictment is filed.</p> <p>(c) If the alleged victim under Subsection (1)(a) requests that the alleged offender be tested more than 48 hours after an information or indictment is filed, the offender shall submit to being tested not later than 24 hours after the request is made.</p> <p>(d) As soon as practicable, the results of the test conducted pursuant to this section shall be provided to:</p> <ul style="list-style-type: none"> (i) the alleged victim who requested the test; (ii) the parent or guardian of the alleged victim, if the alleged victim is a minor; and (iii) the alleged offender. <p>(e) If follow-up testing is medically indicated, the results of follow-up testing of the defendant shall be sent as soon as practicable to:</p> <ul style="list-style-type: none"> (i) the alleged victim; (ii) the parent or guardian of the alleged victim if the alleged victim is younger than 18 years of age; and (iii) the alleged offender. <p>(2) If the mandatory test has not been conducted, and the alleged offender or alleged juvenile offender is already confined in a county jail, state prison, or a secure youth corrections facility, the alleged offender shall be tested while in confinement.</p> <p>(3) The secure youth corrections facility or county jail shall cause the blood specimen of the alleged offender under Subsection (1) confined in that facility to be taken and shall forward the specimen to the Department of Health.</p> <p>(4) The Department of Corrections shall cause the blood specimen of the alleged offender defined in Subsection (1) confined in any state prison to be taken and shall forward the specimen to the Department of Health as provided in Section 64-13-36.</p> <p>(5) The alleged offender who is tested is responsible upon conviction for the costs of testing, unless the alleged offender is indigent. The costs will then be paid by the Department of Health from the General Fund.</p>
§ 76-5-503	<p>Voluntary testing -- Victim to request -- Costs paid by Crime Victim Reparations</p> <p>(1) A victim or minor victim of a sexual offense as provided under Title 76, Chapter 5, Part 4, may request a test for the HIV infection.</p> <p>(2) (a) The local health department shall obtain the blood specimen from the victim and forward the specimen to the Department of Health. (b) The Department of Health shall analyze the specimen of the victim.</p> <p>(3) The testing shall consist of a base-line test of the victim at the time</p>

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	<p>immediately or as soon as possible after the alleged occurrence of the sexual offense. If the base-line test result is not positive, follow-up testing shall occur at three months and six months after the alleged occurrence of the sexual offense.</p> <p>(4) The Crime Victim Reparations Fund shall pay for the costs of the victim testing if the victim provides a substantiated claim of the sexual offense, does not test HIV positive at the base-line testing phase, and complies with eligibility criteria established by the Crime Victim Reparations Act.</p>
§ 76-5-504	<p>Victim notification and counseling</p> <p>(1) (a) The Department of Health shall provide the victim who requests testing of the alleged sexual offender's human immunodeficiency virus status counseling regarding HIV disease and referral for appropriate health care and support services.</p> <p>(b) If the local health department in whose jurisdiction the victim resides and the Department of Health agree, the Department of Health shall forward a report of the alleged sexual offender's human immunodeficiency virus status to the local health department and the local health department shall provide the victim who requests the test with the test results, counseling regarding HIV disease, and referral for appropriate health care and support services.</p> <p>(2) Notwithstanding the provisions of Section 26-6-27, the Department of Health and a local health department acting pursuant to an agreement made under Subsection (1) may disclose to the victim the results of the alleged sexual offender's human immunodeficiency virus status as provided in this section.</p>
§ 76-10-1302	<p>Prostitution.</p> <p>(1) A person is guilty of prostitution when:</p> <ul style="list-style-type: none"> (a) he engages in any sexual activity with another person for a fee; (b) is an inmate of a house of prostitution; or (c) loiters in or within view of any public place for the purpose of being hired to engage in sexual activity. <p>(2) Prostitution is a class B misdemeanor. However, any person who is convicted a second time, and on all subsequent convictions, under this section or under a local ordinance adopted in compliance with Section 76-10-1307 is guilty of a class A misdemeanor, except as provided in Section 76-10-1309.</p>
§ 76-10-1303	<p>Patronizing a prostitute.</p> <p>(1) A person is guilty of patronizing a prostitute when:</p> <ul style="list-style-type: none"> (a) he pays or offers or agrees to pay another person a fee for the purpose of engaging in an act of sexual activity; or

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	<p>(b) he enters or remains in a house of prostitution for the purpose of engaging in sexual activity.</p> <p>(2) Patronizing a prostitute is a class B misdemeanor, except as provided in Section 76-10-1309.</p>
§ 76-10-1309	<p>Enhanced penalties -- HIV positive offender</p> <p>A person who is convicted of prostitution under Section 76-10-1302, patronizing a prostitute under Section 76-10-1303, or sexual solicitation under Section 76-10-1313 is guilty of a third degree felony if at the time of the offense the person is an HIV positive individual, and the person:</p> <p>(1) has actual knowledge of the fact; or</p> <p>(2) has previously been convicted under Section 76-10-1302, 76-10-1303, or 76-10-1313.</p>
§ 76-10-1310	<p>Definitions</p> <p>(1) "HIV infection" means an indication of Human Immunodeficiency Virus (HIV) infection determined by current medical standards and detected by any of the following:</p> <p>(a) presence of antibodies to HIV, verified by a positive confirmatory test, such as Western blot or other method approved by the Utah State Health Laboratory. Western blot interpretation will be based on criteria currently recommended by the Association of State and Territorial Public Health Laboratory Directors;</p> <p>(b) presence of HIV antigen;</p> <p>(c) isolation of HIV; or</p> <p>(d) demonstration of HIV proviral DNA.</p> <p>(2) "HIV positive individual" means a person who has an HIV infection as determined under Subsection (1)..</p> <p>(3) "Local law enforcement agency" means the agency responsible for investigation of the violations of Sections 76-10-1302, 76-10-1303, and 76-10-1313, the filing of charges which may lead to conviction, and the conducting of or obtaining the results of tests for HIV infection.</p> <p>(4) "Positive" means an indication of the HIV infection as defined in Subsection (1).</p> <p>(5) "Test" or "testing" means a test or tests for HIV infection in accordance with standards recommended by the Department of Health.</p>
§ 76-10-1311	<p>Mandatory testing -- Retention of offender medical file -- Civil liability.</p> <p>(1) A person who has entered a plea of guilty, a plea of no contest, a plea of guilty and mentally ill, or been found guilty for violation of Section 76-</p>

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	<p>10-1302, 76-10-1303, or 76-10-1313 shall be required to submit to a mandatory test to determine if the offender is an HIV positive individual. The mandatory test shall be required and conducted prior to sentencing.</p> <p>(2) If the mandatory test has not been conducted prior to sentencing, and the convicted offender is already confined in a county jail or state prison, such person shall be tested while in confinement.</p> <p>(3) The local law enforcement agency shall cause the blood specimen of the offender as defined in Subsection (1) confined in county jail to be taken and tested.</p> <p>(4) The Department of Corrections shall cause the blood specimen of the offender defined in Subsection (1) confined in any state prison to be taken and tested.</p> <p>(5) The local law enforcement agency shall collect and retain in the offender's medical file the following data:</p> <ul style="list-style-type: none"> (a) the HIV infection test results; (b) a copy of the written notice as provided in Section 76-10-1312; (c) photographic identification; and (d) fingerprint identification. <p>(6) The local law enforcement agency shall classify the medical file as a private record pursuant to Subsection 63G-2-302(1)(b) or a controlled record pursuant to Section 63G-2-304.</p> <p>(7) The person tested shall be responsible for the costs of testing, unless the person is indigent. The costs will then be paid by the local law enforcement agency or the Department of Corrections from the General Fund.</p> <p>(8) (a) The laboratory performing testing shall report test results to only designated officials in the Department of Corrections, the Department of Health, and the local law enforcement agency submitting the blood specimen.</p> <ul style="list-style-type: none"> (b) Each department or agency shall designate those officials by written policy. (c) Designated officials may release information identifying an offender under Section 76-10-1302, 76-10-1303, or 76-10-1313 who has tested HIV positive as provided under Subsection 63G-2-202(1) and for purposes of prosecution pursuant to Section 76-10-1309. <p>(9) (a) An employee of the local law enforcement agency, the Department of Corrections, or the Department of Health who discloses the HIV test results under this section is not civilly liable except when disclosure constitutes fraud or willful misconduct as provided in Section 63G-7-202.</p> <ul style="list-style-type: none"> (b) An employee of the local law enforcement agency, the Department of Corrections, or the Department of Health who discloses the HIV test results under this section is not civilly or criminally liable, except when

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	<p>disclosure constitutes a knowing violation of Section 63G-2-801.</p> <p>(10) When the medical file is released as provided in Section 63G-2-803, the local law enforcement agency, the Department of Corrections, or the Department of Health or its officers or employees are not liable for damages for release of the medical file.</p>
§ 76-10-1312	<p>Notice to offender of HIV positive test results</p> <p>(1) A person convicted under Section 76-10-1302, 76-10-1303, or 76-10-1313 who has tested positive for the HIV infection shall be notified of the test results in person by:</p> <ul style="list-style-type: none"> (a) the local law enforcement agency; (b) the Department of Corrections, for offenders confined in any state prison; (c) the state Department of Health; or (d) and authorized representative of any of the agencies listed in this Subsection (1). <p>(2) The notice under Subsection (1) shall contain the signature of the HIV positive person, indicating the person's receipt of the notice, the name and signature of the person providing the notice, and:</p> <ul style="list-style-type: none"> (a) the date of the test; (b) the positive test results; (c) the name of the HIV positive individual; and (d) the following language: <p>"A person who has been convicted of prostitution under Section 76-10-1302, patronizing a prostitute under Section 76-10-1303, or sexual solicitation under Section 76-10-1313 after being tested and diagnosed as an HIV positive individual and either had actual knowledge that the person is an HIV positive individual or the person that has previously been convicted of any of the criminal offenses listed above is guilty of a third degree felony under Section 76-10-1309."</p> <p>(3) Failure to provide this notice, or to provide the notice in the manner or form prescribed under this section, does not create any civil liability and does not create a defense to any prosecution under this part.</p> <p>(4) Upon conviction under Section 76-10-1309, and as a condition of probation, the offender shall receive treatment and counseling for HIV infection and drug abuse as provided in Title 62A, Chapter 15, Substance Abuse and Mental Health Act.</p>
§ 76-10-1313	<p>Sexual solicitation -- Penalty.</p> <p>(1) A person is guilty of sexual solicitation when:</p> <ul style="list-style-type: none"> (a) he offers or agrees to commit any sexual activity with another person for a fee; or (b) he pays or offers or agrees to pay another person to commit any

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	sexual activity for a fee. (2) Sexual solicitation is a class B misdemeanor. However, any person who is convicted a second time, and on all subsequent convictions, under this section or under a local ordinance adopted in compliance with Section 76-10-1307, is guilty of a class A misdemeanor, except as provided in Section 76-10-1309.

Title 77: Utah Code of Criminal Procedure

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

Title 78A: Judiciary and Judicial Administration

UT Title 78A Code §	Code Language
§ 78A-6-1104	<p>When photographs, fingerprints, or HIV infection tests may be taken -- Distribution -- Expungement</p> <p>(3) HIV testing shall be conducted on a minor who is taken into custody after having been adjudicated to have violated state law prohibiting a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, upon the request of the victim or the parent or guardian of a victim younger than 14 years of age.</p> <p>(4) HIV testing shall be conducted on a minor against whom an information or indictment is filed for commission of any offense under Title 76, Chapter 5, Part 4, Sexual Offenses, upon the request of the victim or the parent or guardian of a victim younger than 14 years of age.</p> <p>(5) HIV tests, photographs, and fingerprints may not be taken of a minor younger than 14 years of age without the consent of the court.</p>

Title 78B: Judicial Code	
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§ 78B-8-401	<p>Definitions</p> <p>For purposes of this chapter:</p> <p>(1) "Blood or contaminated body fluids" includes blood, amniotic fluid, pericardial fluid, peritoneal fluid, pleural fluid, synovial fluid, cerebrospinal fluid, semen, and vaginal secretions, and any body fluid visibly contaminated with blood.</p> <p>(2) "Disease" means Human Immunodeficiency Virus infection, acute or chronic Hepatitis B infection, Hepatitis C infection, and any other infectious disease specifically designated by the Labor Commission in consultation with the Department of Health for the purposes of this chapter.</p> <p>(3) "Emergency medical services provider" means an individual certified under Section 26-8a-302, a public safety officer, local fire department personnel, or personnel employed by the Department of Corrections or by a county jail, who provide prehospital emergency medical care for an emergency medical services provider either as an employee or as a volunteer.</p> <p>(4) "First aid volunteer" means a person who provides voluntary emergency assistance or first aid medical care to an injured person prior to the arrival of an emergency medical services provider or public safety officer.</p> <p>(5) "Public safety officer" means a peace officer as defined in Title 53, Chapter 13, Peace Officer Classifications.</p> <p>(6) "Significant exposure" and "significantly exposed" mean:</p> <p>(a) exposure of the body of one person to the blood or body fluids of another person by:</p> <p>(i) percutaneous injury, including a needle stick or cut with a sharp object or instrument; or</p> <p>(ii) contact with an open wound, mucous membrane, or nonintact skin because of a cut, abrasion, dermatitis, or other damage; or</p> <p>(b) exposure that occurs by any other method of transmission defined by the Department of Health as a significant exposure.</p>
§ 78B-8-402	<p>Petition -- Disease testing -- Notice -- Payment for testing.</p> <p>(1) An emergency medical services provider, or first aid volunteer who is significantly exposed during the course of performing the emergency medical services provider's duties or during the course of performing emergency assistance or first aid may:</p> <p>(a) request that the person to whom he was significantly exposed voluntarily submit to testing; or</p> <p>(b) petition the district court for an order requiring that the person to whom he was significantly exposed submit to testing to determine the</p>

	<p>presence of a disease, as defined in Section 78B-8-401, and that the results of that test be disclosed to the petitioner by the Department of Health.</p> <p>(2) (a) The petitioner shall file a petition with the district court seeking an order to submit to testing and to disclose the results in accordance with the provisions of this section.</p> <p>(b) The petition shall be sealed upon filing and made accessible only to the petitioner, the subject of the petition, and their attorneys, upon court order.</p> <p>(3) (a) The petition described in Subsection (2) shall be accompanied by an affidavit in which the emergency medical services provider or first aid volunteer certifies that he has been significantly exposed to the individual who is the subject of the petition and describes that exposure.</p> <p>(b) The petitioner shall submit to testing to determine the presence of a disease, when the petition is filed or within three days after the petition is filed.</p> <p>(4) The petitioner shall cause the petition required under this section to be served on the person who the petitioner is requesting to be tested in a manner that will best preserve the confidentiality of that person.</p> <p>(5) (a) The court shall set a time for a hearing on the matter within 10 days after the petition is filed and shall give the petitioner and the individual who is the subject of the petition notice of the hearing at least 72 hours prior to the hearing.</p> <p>(b) The individual who is the subject of the petition shall also be notified that he may have an attorney present at the hearing, and that his attorney may examine and cross-examine witnesses.</p> <p>(c) The hearing shall be conducted in camera.</p> <p>(6) The district court may enter an order requiring that an individual submit to testing for a disease if the court finds probable cause to believe:</p> <p>(a) the petitioner was significantly exposed; and</p> <p>(b) the exposure occurred during the course of the emergency medical services provider's duties, or the provision of emergency assistance or first aid by a first aid volunteer.</p> <p>(7) The court may order that additional, follow-up testing be conducted, and that the individual submit to that testing, as it determines to be necessary and appropriate.</p> <p>(8) The court is not required to order an individual to submit to a test under this section if it finds that there is a substantial reason, relating to the life or health of the individual, not to enter the order.</p> <p>(9) (a) Upon order of the district court that a person submit to testing for a disease, that person shall report to the designated local health department to have his blood drawn within 10 days from the issuance of the order, and thereafter as designated by the court, or be held in contempt of court.</p> <p>(b) The court shall send the order to the Department of Health and to the local health department ordered to draw the blood.</p> <p>(c) Notwithstanding the provisions of Section 26-6-27, the Department of Health and a local health department may disclose the test results pursuant to a court order as provided in this section.</p> <p>(d) Under this section, anonymous testing as provided under Section 26-6-3.5 shall not satisfy the requirements of the court order.</p> <p>(10) The local health department or the Department of Health shall inform the subject of the petition and the petitioner of the results of the</p>
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	<p>test and advise both parties that the test results are confidential. That information shall be maintained as confidential by all parties to the action.</p> <p>(11) The court, its personnel, the process server, the Department of Health, local health department, and petitioner shall maintain confidentiality of the name and any other identifying information regarding the individual tested and the results of the test as they relate to that individual, except as specifically authorized by this chapter.</p> <p>(12) (a) Except as provided in Subsection (12)(b), the petitioner shall remit payment for the drawing of the blood specimen and the analysis of the specimen for the mandatory disease testing to the entity that draws the blood.</p> <p>(b) If the petitioner is an emergency medical services provider, the agency which employs the emergency medical services provider shall remit payment for the drawing of the blood specimen and the analysis of the specimen for the mandatory disease testing to the entity that draws the blood.</p> <p>(13) The entity that draws the blood shall cause the blood and the payment for the analysis of the specimen to be delivered to the Department of Health for analysis.</p> <p>(14) If the individual is incarcerated, the incarcerating authority shall either draw the blood specimen or shall pay the expenses of having the individual's blood drawn.</p>
§ 78B-8-405	<p>Construction.</p> <p>Nothing in this part may be construed as prohibiting:</p> <p>(1) a person from voluntarily consenting to the request of a health care provider, as defined in Section 78B-3-403, to submit to testing following a significant exposure; or</p> <p>(2) a court from considering the petition of a health care provider for an order requiring that a person submit to testing to determine the presence of a disease if a significant exposure has occurred in connection with the health care provider's treatment of that person.</p>

Utah Administrative Rules - Titles R380-R444: Health	
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UAR	Code Language
R277-474-1	<p>Definitions.</p> <p>A. "Board" means the Utah State Board of Education.</p> <p>B. "Curriculum materials review committee (committee)" means a committee formed at the district or school level, as determined by the local board of education, that includes parents, health professionals, school health educators, and administrators, with at least as many parents as school employees. The membership of the committee shall be appointed and reviewed annually by August 1 of each year by the local board, shall meet on a regular basis as determined by the membership, shall select its own officers and shall be subject to Sections 52-4-1 through 52-4-10.</p> <p>C. "Family Educational Rights and Privacy Act" is a state statute, Sections 53A-13-301 and 53A-13- 302, that protects the privacy of students, their parents, and their families, and supports parental involvement in the public education of their children.</p> <p>D. "Human sexuality instruction or instructional programs" means any course, unit, class, activity or presentation that provides instruction or information to students about sexual abstinence, human reproduction, reproductive anatomy, physiology, pregnancy, marriage, childbirth, parenthood, contraception, or HIV/AIDS and other sexually transmitted diseases. While these topics are most likely discussed in such courses as health education, health occupations, human biology, physiology, parenting, adult roles, psychology, sociology, child development, and biology, this rule applies to any course or class in which these topics are the focus of discussion.</p> <p>E. "Inservice" means training in which Utah educators may participate to renew a license, receive information or training in a specific subject area, teach in another subject area or teach at another grade level.</p> <p>F. "Instructional Materials Commission" means an advisory commission authorized under Section 53A-14- 101.</p> <p>G. "Medically accurate" means verified or supported by a body of research conducted in compliance with scientific methods and published in journals that have received peer-review, where appropriate, and recognized as accurate and objective by professional organizations and agencies with expertise in the relevant field, such as the American Medical Association.</p> <p>H. "Parental notification form" means a form developed by the USOE and used exclusively by Utah public school districts or Utah public schools for parental notification of subject matter identified in this rule. Students may not participate in human sexuality instruction or instructional programs as identified in R277-474-1D without prior affirmative parent/guardian response on file. The form:</p>

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	<p>(1) shall explain a parent's right to review proposed curriculum materials in a timely manner;</p> <p>(2) shall request the parent's permission to instruct the parent's student in identified course material related to human sexuality;</p> <p>(3) shall allow the parent to exempt the parent's student from attendance for class period(s) while identified course material related to human sexuality is presented and discussed;</p> <p>(4) shall be specific enough to give parents fair notice of topics to be covered;</p> <p>(5) shall include a brief explanation of the topics and materials to be presented and provide a time, place and contact person for review of the identified curricular materials;</p> <p>(6) shall be on file with affirmative parent/guardian response for each student prior to the student's participation in discussion of issues protected under Section 53A-13-101; and</p> <p>(7) shall be maintained at the school for a reasonable period of time.</p> <p>I. "Utah educator" means an individual such as an administrator, teacher, counselor, teacher's assistant, or coach, who is employed by a unit of the Utah public education system and who provides teaching or counseling to students.</p> <p>J. "Utah Professional Practices Advisory Commission (Commission)" means a Commission authorized under 53A-6-301 and designated to review allegations against educators and recommend action against educators' licenses to the Board.</p> <p>K. "USOE" means the Utah State Office of Education.</p>
R277-474-2	<p>Authority and Purpose.</p> <p>A. This rule is authorized by Utah Constitution, Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-13-101(1)(c)(ii)(B) which directs the Board to develop a rule to allow local boards to adopt human sexuality education materials or programs under Board rules and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.</p> <p>B. The purposes of this rule are:</p> <p>(1) to provide requirements for the Board, school districts and individual educators consistent with legislative intent and the Board Resolution of March 14, 2000 which addresses instruction about and materials used in discussing human sexuality in the public schools;</p> <p>(2) to provide a process for local boards to approve human sexuality instructional materials; and</p>

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R277-474-3	<p>General Provisions.</p> <p>C. Utah educators shall follow all provisions of state law including parent/guardian notification and prior written parental consent requirements under Sections 76-7-322 and 76-7-323 in teaching any aspect of human sexuality.</p>
R277-474-4	<p>State Board of Education Responsibilities.</p> <p>The Board shall:</p> <p>A. develop and provide inservice programs and assistance with training for educators on law and rules specific to human sexuality instruction and related issues.</p> <p>B. develop and provide a parental notification form and timelines for use by school districts.</p> <p>C. establish a review process for human sexuality instructional materials and programs using the Instructional Materials Commission and requiring final Board approval of the Instructional Materials Commission's recommendations.</p> <p>D. approve only medically accurate human sexuality instruction programs.</p> <p>E. receive and track parent and community complaints and comments received from school districts related to human sexuality instructional materials and programs.</p>
R277-474-5	<p>School District Responsibilities.</p> <p>A. Annually each school district shall require all newly hired or newly assigned Utah educators with responsibility for any aspect of human sexuality instruction to attend a state-sponsored inservice outlining the human sexuality curriculum and the criteria for human sexuality instruction in any courses offered in the public education system.</p>
R277-474-6	<p>Local Board Adoption of Human Sexuality Education Instructional Materials.</p> <p>A. A local board may adopt instructional materials under Section 53A-13-101(1)(c)(iii).</p> <p>B. Materials that are adopted shall comply with the criteria of Section 53A-13-101(1)(c)(iii) and:</p> <p>(1) shall be medically accurate as defined in R277-474-1G.</p> <p>(2) shall be approved by a majority vote of the local board members present at a public meeting of the board.</p> <p>(3) shall be available for reasonable review opportunities to residents of the district prior to consideration for adoption.</p>

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	<p>C. The local board shall comply with the reporting requirement of Section 53A-13-101(1)(c)(iii)(D). The report to the Board shall include:</p> <p>(1) a copy of the human sexuality instructional materials not approved by the Instructional Materials Commission that the local board seeks to adopt;</p> <p>(2) documentation of the materials' adoption in a public board meeting;</p> <p>(3) documentation that the materials or program meets the medically accurate criteria of R277-474- 6B;</p> <p>(4) documentation of the recommendation of the materials by the committee; and</p> <p>(5) a statement of the local board's rationale for selecting materials not approved by the Instructional Materials Commission.</p> <p>D. The local board's adoption process for human sexuality instructional materials shall include a process for annual review of the board's decision. This decision may be appealed by a designated number or percentage of district patrons as defined by the local board.</p>
R277-474-7	<p>Utah Educator Responsibilities.</p> <p>A. Utah educators shall participate in training provided under R277-474-5A.</p> <p>B. Utah educators shall use the common parental notification form or a form approved by their employing school district, and timelines approved by the Board.</p> <p>C. Utah educators shall individually record parent and community complaints, comments, and the educators' responses regarding human sexuality instructional programs.</p> <p>D. Utah educators may respond to spontaneous student questions for the purposes of providing accurate data or correcting inaccurate or misleading information or comments made by students in class regarding human sexuality.</p>
R386-702-3	<p>Reportable Diseases, Emergency Illnesses, and Health Conditions.</p> <p>(1) The Utah Department of Health declares the following conditions to be of concern to the public health and reportable as required or authorized by Section 26-6-6 and Title 26, Chapter 23b of the Utah Health Code.</p> <p>(hh) Human Immunodeficiency Virus Infection. Reporting requirements are listed in R388-803</p>
R388-803-1	<p>Authority and Purpose.</p> <p>(1) Authority for this rule is established in Title 26, Chapter 6, Sections 3 and 3.5 of the Utah Communicable Disease Control Act.</p>

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	<p>(2) This rule establishes requirements for:</p> <p>(a) reporting screening, diagnostic, and treatment test results related to Human Immunodeficiency Virus (HIV) and Acquired Immunodeficiency Syndrome (AIDS); and</p> <p>(b) partner identification and notification.</p> <p>(c) Reporting of HIV infection and AIDS is required by R386-702, Communicable Disease Rule.</p>
R388-803-2	<p>Reporting of AIDS, HIV Infections, and Related Tests</p> <p>(1) A health care provider who administers or causes to have administered any of the following tests shall report all positive results to the Utah Department of Health or the local health department where the patient resides:</p> <p>(a) presence of antibodies to HIV, repeatedly reactive on two or more tests; presence of antibodies to HIV that are verified by a positive confirmatory test; repeatedly reactive tests with indeterminate confirmatory tests.</p> <p>(b) presence of HIV antigen;</p> <p>(c) isolation of HIV;</p> <p>(d) demonstration of HIV proviral DNA;</p> <p>(e) demonstration of HIV specific nucleic acids; and</p> <p>(f) any other test or condition indicative of HIV infection.</p> <p>(2) A health care provider who administers or causes to have administered any of the following tests shall report the results of each test to the Utah Department of Health or the local health department where the patient resides:</p> <p>(a) CD4+ T-Lymphocyte tests; and</p> <p>(b) HIV viral load determination;</p> <p>(3)(a) A laboratory that analyzes samples for any of the tests listed in subsection (1) shall report all positive results to the Utah Department of Health or the local health department where the patient resides, except that it need not report patient name if it does not have the name.</p> <p>(b) A laboratory that analyzes samples for any of the tests listed in subsection (2) shall report all results to the Utah Department of Health or the local health department where the patient resides, except that it need not report patient name if it does not have the name.</p> <p>(4) Reports shall include:</p> <p>(a) patient name, if available;</p> <p>(b) patient number, if the name is not available;</p> <p>(c) date of birth;</p> <p>(d) date of test administration;</p> <p>(e) test result; and</p> <p>(f) name of the health care provider who ordered the test.</p> <p>(5) Reports may be made in writing, by telephone, or by other electronic</p>

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	means acceptable to the Department.
R388-803-3	<p>Exemptions for Reporting of HIV Infection, AIDS and Related Tests.</p> <p>(1) A university or hospital that conducts research studies exempt from reporting AIDS and HIV infection under Section 26-6-3.5 shall submit the following to the Department:</p> <ul style="list-style-type: none"> (a) a summary of the research protocol; (b) written approval of the institutional review board; and (c) a letter showing funding sources and the justification for requiring anonymity. <p>(2) The university or hospital shall provide the Department a quarterly report indicating the number of HIV infected individuals enrolled in the study.</p>
R388-803-4	<p>Partner Identification and Notification</p> <p>(1) "Partner" is defined as any individual, including a spouse, who has shared needles, syringes, or drug paraphernalia or who has had sexual contact with an HIV infected individual. "Spouse" is defined as any individual who is the marriage partner of that person at any time within the ten-year period prior to the diagnosis of HIV infection.</p> <p>(2) If an individual is tested and found to have an HIV infection, the Utah Department of Health or local health department shall conduct partner notification activities.</p>
R512-32-1	<p>Purpose and Authority.</p> <p>(1) The purpose of this rule is to establish standards for confidentiality and testing of children with reportable communicable diseases.</p> <p>(2) This rule is authorized by Section 62A-4a-102.</p>
R512-32-2	<p>Definitions.</p> <p>(1) "Communicable Disease" means any infectious condition reportable to the Utah Department of Health, pursuant to Section 26-6-3. These diseases are listed in the Code of Communicable Disease Rules (R386-702-2 and R386-702-3). In addition, for the purposes of this rule, human immunodeficiency virus (HIV) seropositivity will be considered a communicable disease. Non-reportable minor illnesses such as strep, flu, and colds are excluded from this definition.</p> <p>(2) "Primary care medical provider" means a person authorized and licensed to supply the daily needs of children in the custody of the Division of Child and Family Services (Child and Family Services). (Other divisions of the Department, for example, the Division of Juvenile Justice Services, shall function under separate communicable disease rules for those youth within their custody and jurisdiction.)</p>

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	<p>(3) "UDHS" means the Utah Department of Human Services.</p> <p>(4) "Child and Family Services" means the Division of Child and Family Services.</p> <p>(5) "UDOH" means the Utah Department of Health, Bureau of Epidemiology or Bureau of Communicable Disease Control.</p> <p>(6) "HIV Screening" means a laboratory test (Elisa Test) to detect evidence of infection with the HIV; the causative agent of acquired immunodeficiency syndrome (AIDS).</p> <p>(7) "HIV Seropositivity" means the presence in an individual, as detected by confirmatory laboratory testing (Western Blot Test), of an antibody or antigen to the HIV.</p> <p>(8) "High Risk Behaviors" means behaviors which may include injectable drug use, sharing intravenous needles and syringes, multiple sex partners, unprotected sex that increase the risks of contracting Hepatitis B, AIDS, HIV disease, and sexually transmitted diseases such as gonorrhea, syphilis, chancroid, granuloma inguinale, chlamydial infections, pelvic inflammatory disease, and lymphogranuloma venereum.</p> <p>(9) "Children at Risk" means an infant or child born to parent(s) engaging in or who have a history of engaging in high risk behaviors, or a child or youth who has been sexually abused by a person who engages in or has a history of engaging in high risk behaviors.</p> <p>(10) "Contact" means an individual who has been exposed to a communicable disease through a known mode of transmission.</p> <p>(11) "Controlled" means a classification of information (medical, psychiatric, or psychological) under the Government Records Access and Management Act (GRAMA), Section 63G-2-304.</p>
R512-32-3	<p>Confidentiality.</p> <p>(1) In accordance with Section 26-6-27, records containing personal identifiers and information regarding communicable disease are confidential. Such information shall not be disclosed to any person (including UDHS personnel) who does not have a valid and objective need to know. Such persons who may have a valid and objective need to know may include: Child and Family Services administrators, program administrators, supervisor, and caseworker, the foster parent or provider, UDOH, the Guardian ad Litem, the Juvenile Court Judge, and persons providing psychological or medical treatment.</p> <p>(2) Due to the GRAMA and state confidentiality laws, any documentation in the case record regarding HIV status or any other communicable disease information must be filed under the "Medical/Assessment" section of the case record.</p>
R512-32-4	Identification and Testing of Children with Communicable Disease.

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	<p>(1) Testing at Agency's Request.</p> <p>(a) Many medical or laboratory tests to detect communicable disease, including HIV screening, are not routinely performed as part of physical or medical examinations of children in the custody of Child and Family Services. When Child and Family Services has custody and guardianship of a child who may have a communicable disease, the State has the authority to obtain a medical evaluation to determine the child's communicable disease status.</p> <p>(b) If a foster parent or provider has a reasonable belief that a foster child or the foster child's parent may have a communicable disease, the foster parent or provider shall promptly discuss it with the caseworker.</p> <p>(c) If the caseworker has a reasonable belief that the child may have a communicable disease, the caseworker is required to contact UDOH promptly for consultation.</p> <p>(d) A "reasonable belief" includes the following: information received that may indicate the child or the child's parent may be at risk from engaging in or having a history of engaging in high risk behaviors as defined in R512-32-1(8), a child who may be at risk as defined in R512-32-1(9), or medical information received by the caseworker, foster parent, or provider.</p> <p>(e) Communicable disease testing requires written, informed consent. If Child and Family Services has custody and guardianship of a child, Child and Family Services has the authority to provide written, informed consent for communicable disease testing. If a child under the custody and guardianship of Child and Family Services refuses to be tested, the caseworker is required to contact UDOH, the local health department, and the Attorney General's office immediately upon hearing of the refusal.</p> <p>(f) When a parent of a child in the custody of Child and Family Services is known or reports to be involved in high risk behaviors, the caseworker shall contact UDOH for consultation.</p> <p>(g) All contacts with UDOH shall be documented in the child's case record and filed under the "Medical/Assessment" section of that record.</p> <p>(2) Testing at Minor's Request.</p> <p>(a) A minor may seek HIV testing without parental or UDHS consent. When the minor requests the test, the right to disclose test results belongs to the minor (Section 26-6-18). If the minor chooses to disclose the test results to UDHS, UDHS cannot disclose the test results to any other person, including the Guardian Ad Litem. Upon disclosure to UDHS of a positive test result, the caseworker shall contact UDOH for consultation and follow up.</p> <p>(b) When a record of HIV testing is subpoenaed, the caseworker shall immediately contact the Attorney General's office or the Child and Family</p>

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	Services program administrator or deputy director.
R512-32-6	<p>Considerations Regarding Placement of a Child With a Communicable Disease.</p> <p>(1) A provider's decision to accept placement of a child with a communicable disease shall be made with sufficient knowledge of the specific risks involved, as well as any special accommodations or care requirements. Prior to making this decision, the caseworker shall refer the provider to UDOH for consultation on the nature of the disease, modes of transmission, appropriate infection control measures, special care requirements, and universal precautions.</p> <p>(2) If, after consultation, the provider accepts the placement, a Communicable Disease Information Acknowledgement form shall be signed by the provider and placed in his or her file, as well as the child's case record under the "Medical/Assessment" section of that record.</p> <p>(3) If a minor is discovered to have a communicable disease after placement, the consultation and documentation described in R512-32-5(1) and R512-32-5(2) shall be accomplished without delay.</p>
R512-32-7	<p>Pick-Up Orders.</p> <p>(1) Pick-up orders filed with the Juvenile Court may state that the youth is engaging, or has a history of engaging, in High Risk Behaviors. The order or supplementary forms cannot include information that the child has or may have a communicable disease.</p>
R512-32-8	<p>Returning a Minor to the Parent's Custody.</p> <p>(1) If a minor in Child and Family Services custody tests positive for the HIV disease and the minor is being returned home, UDOH shall be responsible for informing natural parents of the child's positive test. Both caseworker and UDOH shall coordinate the placement of the child back home. The caseworker shall assist the parents in planning for the child's care and medical follow up needs.</p> <p>(2) If a minor in Child and Family Services custody tests positive for a communicable disease other than HIV disease and the minor is being returned home, the caseworker is responsible for informing the natural parents of the child's positive test and if needed, referring them to UDOH for consultation and appropriate medical resources.</p>
R512-32-9	<p>When a Minor in Custody Has Been Exposed to a Person Who Has Tested Positive.</p> <p>(1) When a minor in the custody of Child and Family Services is identified by UDOH as having been exposed to a person who has tested positive, UDOH shall contact the Child and Family Services program administrator or deputy director who shall then contact the appropriate caseworker. The caseworker shall contact UDOH to arrange for the minor to be tested and counseled. The caseworker and provider will follow up on recommended medical treatment and other necessary services.</p>
R590-132-1	Authority, Purpose and Scope.

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	<p>This rule is promulgated by the Insurance Commissioner pursuant to the authority provided under Subsections 31A-2-201(3) and (4), General Duties and Powers.</p> <p>The purpose of this rule is to identify and restrict certain underwriting, classification, or declination practices regarding HIV infection, that the commissioner finds are or would be unfairly discriminatory if engaged in. This rule also provides guidelines for the confidentiality of AIDS related testing, which, if not followed, would be unfairly discriminatory or hazardous to members of the insuring public.</p> <p>This rule applies to every licensee authorized to engage in the business of insurance in Utah under Title 31A of the Utah Code.</p>
R590-132-2	<p>Definitions.</p> <p>For the purpose of this rule, the commissioner adopts the definitions set forth in Section 31A-1-301 and in addition, the following:</p> <p>A. HIV infection is defined as the presence of Human Immunodeficiency Virus (HIV) in a person as detected by the following;</p> <ol style="list-style-type: none"> 1. Presence of antibodies to HIV, verified by appropriate confirmatory tests. 2. Presence of HIV antigen. 3. Isolation of HIV. 4. Demonstration of HIV proviral DNA.
R590-132-3	<p>Rule.</p> <p>A. Persons with HIV infection will not be singled out for either unfairly discriminatory or preferential treatment for insurance purposes.</p> <p>B. To properly classify risks related to covering prospective insureds, insurers may require reasonable testing. Application questions must conform to the following guidelines:</p> <ol style="list-style-type: none"> 1. No inquiry in an application for health or life insurance coverage, or in an investigation conducted by an insurer or an insurance support organization on its behalf in connection with an application for such coverage, shall be directed toward determining the applicant's sexual orientation. 2. Sexual orientation may not be used in the underwriting process or in the determination of insurability. <p>C. When used, the testing of insurance applicants must not be administered on an unfair basis. If a prospective insured is to be declined or rated substandard because of HIV infection, such action must be based on appropriate confirmatory tests.</p>

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	<p>D. Notice and Consent. No person engaged in the business of insurance shall require an HIV test of an individual in connection with an application for insurance unless the individual signs a written release on a form which contains the following information:</p> <ol style="list-style-type: none"> 1. A statement of the purpose, content, use and meaning of the test. 2. A statement regarding disclosure of the test results, including information explaining the effect of releasing information to a person directly engaged in the business of insurance. The applicant should be advised that the insurer may disclose test results to others involved in the underwriting and claims review processes. If the HIV test is positive, the results will be reported by those conducting the test or providers receiving test results to the local health department. If the applicant does not designate a physician or other health care provider, the insurer shall report a positive test result to the local health department. If the insurer is a member of the Medical Information Bureau ("MIB, Inc.") the insurer may report the test results to MIB, Inc. in a generic code which signifies only non-specific test abnormalities. 3. A provision where the applicant directs that any positive screen results be reported to a designated health care professional of his/her choice for post-test counseling. <p>For purposes of this section, insurers will use the following notice and consent disclosure form or a form that contains similar language. Such form is not considered part of the policy or policy application.</p> <p>For purposes of this section, insurers will use the following notice and consent disclosure form or a form that contains similar language. Such form is not considered part of the policy or policy application.</p> <p style="text-align: center;">TABLE</p> <p style="text-align: center;">Illustrative HIV Testing Informed Consent Form</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%;">EXAMINER</td> <td style="width: 50%;">INSURER</td> </tr> <tr> <td>ADDRESS</td> <td>ADDRESS</td> </tr> <tr> <td>.....</td> <td>.....</td> </tr> <tr> <td>.....</td> <td>.....</td> </tr> </table> <p style="text-align: center;">NOTICE AND CONSENT FOR TESTING WHICH MAY INCLUDE AIDS VIRUS (HIV) ANTIBODY/ANTIGEN TESTING</p> <p>To determine your insurability, the insurer named above (the insurer) is requesting that you provide a sample of your blood and/or other bodily fluid for testing and analysis. In order to adequately perform all testing procedures, it may be necessary for you to provide a sample of more than one of these bodily fluids. All tests will be performed by a licensed laboratory.</p> <p>Unless precluded by law, tests may be performed to determine the presence of antibodies or antigens to the Human Immunodeficiency Virus (HIV), also known as the AIDS virus. The HIV antibody test performed is actually a series of tests done by a medically accepted procedure. The HIV</p>	EXAMINER	INSURER	ADDRESS	ADDRESS
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	<p>antigen test directly identifies AIDS viral particles. These tests are extremely reliable. Other tests which may be performed include determinations of blood cholesterol and related lipids (fats), screening for liver or kidney disorders, diabetes, immune disorders, and other physical conditions.</p> <p>All test results will be treated confidentially. They will be reported by the laboratory to the insurer. When necessary for business reasons in connection with insurance you have or had applied for with the insurer, the insurer may disclose test results to others such as its affiliates, reinsurers, employees, or contractors. If the insurer is a member of the Medical Information Bureau (MIB, Inc.), and should the insurer request an additional sample of bodily fluid for further testing, and you choose to decline that request, your declination to be tested will be reported to the MIB, Inc. Regardless of the number of tests requested, if the final test results for HIV antibodies/antigens are other than normal, the insurer will report to the MIB, Inc. a generic code which signifies only a non-specific abnormality. If your HIV test is normal, no report will be made about it to the MIB, Inc. Other test results may be reported to the MIB, Inc. in a more specific manner. The organizations described in this paragraph may maintain the test results in a file or data bank. There will be no other disclosure of test results or even that the tests have been done except as may be required or permitted by law or as authorized by you.</p> <p>If your HIV test results are normal, no routine notification will be sent to you. If the HIV test results are other than normal, the insurer will contact you. The insurer may also contact you if there are other abnormal test results which, in the insurer's opinion, are significant. The insurer may ask you for the name of a physician or other health care provider to whom you may authorize disclosure and with whom you may wish to discuss the results. The laboratory, physician or other health care provider will report positive test results to the Health Department. If you have not designated a physician or other health care provider to receive disclosure of positive test results, the insurer will report positive test results to the health department.</p> <p>Positive HIV antibodies/antigen test results do not mean that you have AIDS, but that you are at significantly increased risk of developing AIDS or AIDS-related conditions. Federal authorities say that persons who are HIV antibody/antigen positive should be considered infected with the AIDS virus and capable of infecting others.</p> <p>Positive HIV antibody or antigen test results or other significant abnormalities will adversely affect your application for insurance. This means that your application may be declined, that an increased premium may be charged, or that other policy changes may be necessary.</p> <p>I have read and I understand this notice and consent for testing which may include HIV antibodies/antigen testing. I voluntarily consent to the withdrawal from me of blood and/or other bodily fluid, the testing of that blood and/or other bodily fluid, and the disclosure of the test results as described above.</p>

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	<p>I understand that I have the right to request and receive a copy of this authorization. A photocopy of this form will be as valid as the original.</p> <p>..... Proposed Insured Date of Birth</p> <p>..... Signature of Proposed Insured Date</p> <p>..... State of Residence</p> <p>..... Designated Physician or Health Care Provider that is to Receive Positive Test Results</p> <p>..... Street Address</p> <p>..... City State Zip</p>
R590-132-4	<p>Dissemination.</p> <p>Each insurer is instructed to distribute a copy of this rule or an equivalent summary to all personnel engaged in activities requiring knowledge of this rule, and to instruct them as to its scope and operation.</p>
R590-132-5	<p>Penalties.</p> <p>Any licensee that violates this rule will be subject to the forfeiture provisions set forth in Section 31A-2-308 and 31A-23-216.</p>
R590-132-6	<p>Confidentiality.</p> <p>Except as outlined in R590-132-3(D) above, all positive or indeterminate records of the applicant held by the licensee that refer to the HIV status shall be held as confidential records under restricted access and will not be re-released unless re-disclosure is specifically authorized by the applicant.</p> <p>Re-release and Re-disclosure are required when the test results are to be used for purposes other than those included in the initial release.</p>
R590-132-7	<p>Severability.</p> <p>If any provision of this rule or its application to any person is for any reason held to be invalid, the remainder of the rule and the application of any provision to other persons or circumstances may not be affected.</p>
R612-10-1	<p>HIV, Hepatitis B and C Testing and Reporting for Emergency Medical Services Providers.</p> <p>A. Authority - The HIV, Hepatitis B and C Testing and Reporting for Emergency Medical Services Providers rule is established under the</p>

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	<p>authority of U.C.A. Section 78B-8-404.</p> <p>B. Purpose - To establish procedures pursuant to U.C.A. Section 78B-8-401 for source patient testing and reporting following a significant exposure of an emergency medical services provider.</p> <p>C. Definitions</p> <ol style="list-style-type: none"> 1. Department means the Utah Labor Commission. 2. Contact means designated person(s) within the emergency medical services agency or the employer of the emergency medical services provider. 3. Disease means Human Immunodeficiency Virus, acute or chronic Hepatitis B or Hepatitis C infections. 4. Emergency medical services provider means Emergency Medical personnel as defined in Section 26-8a- 102, a public safety officer, local fire department personnel, or personnel employed by the Department of Corrections or by a county jail, who provide prehospital Emergency medical care for an emergency medical services agency either as an employee or a volunteer. 5. Emergency medical services (EMS) agency means an agency, entity, or organization that employs or utilizes emergency medical services providers as defined in (4) as employees or volunteers. 6. Source Patient means any individual cared for by a prehospital emergency medical services provider, including but not limited to victims of accidents or injury, deceased persons, and prisoners or persons in the custody of the Department of Corrections. 7. Receiving facility means a hospital, health care or other facility where the patient is delivered by the emergency medical services provider for care. 8. "Significant Exposure" and "Significantly Exposed" mean: <ol style="list-style-type: none"> a. exposure of the body of one person to the blood or body fluids visibly contaminated by blood of another person by: <ol style="list-style-type: none"> 1. percutaneous injury, including a needle stick or cut with a sharp object or instrument; or 2. contact with an open wound, mucous membrane, or nonintact skin because of a cut, abrasion, dermatitis, or other damage; or b. exposure that occurs by any other method of transmission defined by the Department of Health as a significant exposure. <p>D. Emergency Medical Services Provider Responsibility.</p>

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	<p>1. The EMS provider shall document and report all significant exposures to the receiving facility and contact as defined in (C) (2).</p> <p>2. The reporting process is as follows:</p> <p>a. The exposed EMS provider shall complete the Exposure Report Form (ERF) at the time the patient is delivered to the receiving facility and provide a copy to the person at the receiving facility authorized by the facility to receive the form. In the event the exposed EMS provider does not accompany the source patient to the receiving facility, he/she may report the exposure incident, with information requested on the ERF, by telephone to a person authorized by the facility to receive the form. In this event, the exposed EMS provider shall nevertheless submit a written copy of the ERF within three days to an authorized person of the receiving facility.</p> <p>b. The exposed EMS provider shall, within three days of the incident, submit a copy of the ERF to the contact as defined in (C) (2).</p> <p>E. Receiving Facility Responsibility:</p> <p>1. The receiving facility shall establish a system to receive ERFs as well as telephoned reports from exposed EMS providers on a 24-hour per day basis. The facility shall also have available or on call, trained pre-test counselors for the purpose of obtaining consent and counseling of source patients when HIV testing has been requested by EMS providers. The receiving facility shall contact the source patient prior to release from the facility to provide the individual with counseling or, if unable to provide counseling, provide the source patient with phone numbers for a trained counselor to provide the counseling within 24 hours.</p> <p>2. Upon notification of exposure, the receiving facility shall request permission from the source patient to draw a blood sample for disease testing, as defined in (C) (3). In conjunction with this request, the source patient must be advised of his/her right to refuse testing and be advised that if he/she refuses to be tested that fact will be forwarded to the EMS agency or employer of EMS provider. The source patient shall also be advised that if he/she refuses to be tested, the EMS agency or provider may seek a court order to compel the source patient to submit to a blood draw for the disease testing.</p> <p>Testing is authorized only when the source patient, his/her next of kin or legal guardian consents to testing, with the exception that consent is not required from an individual who has been convicted of a crime and is in the custody or under the jurisdiction of the Department of Corrections, or if the source patient is dead. If consent is denied, the receiving facility shall complete the ERF and send it to the EMS agency or employer of the EMS provider. If consent is received, the receiving facility shall draw a sample of the source patient's blood and send it, along with the ERF, to a qualified laboratory for testing.</p>

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	<p>3. The laboratory that the receiving facility has sent source patient's blood draw to shall send the disease test results, by Case ID number, to the EMS agency or employer of the EMS provider.</p> <p>F. EMS Agency/Employer Responsibility:</p> <p>1. The EMS agency/employer, upon receipt of the disease tests, from the receiving facility laboratory, shall immediately report the result, by case number, not name, to the exposed EMS provider.</p> <p>2. The EMS agency/employer, upon the receipt of refusal of testing by the source, shall report that refusal to the EMS provider.</p> <p>3. The agency/employer or its insurance carrier shall pay for the EMS provider and the source patient testing for the covered diseases per the Labor Commission fee schedule.</p> <p>4. The EMS agency/employer shall maintain the records of any disease exposures contained in this rule per the OSHA Blood Borne Pathogen standards.</p>