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Aids Related Testing and Medical Information and Confidentiality

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Sec. 19a-589-1. Definitions

As used in sections 19a-589-1 through 19a-589-3 inclusive as follows:

(a) ''AIDS'' means acquired immune deficiency syndrome, as defined by the Centers for Disease Control of the United States Public Health Service;

(b) ''Confidential HIV-related information'' means any information pertaining to the protected individual or obtained pursuant to a release of confidential HIV related information, concerning whether a person has been counseled regarding HIV infection, has been the subject of an HIV-related test, or has HIV infection, HIV-related illness or AIDS, or information which identifies or reasonably could identify a person as having one or more of such conditions, including information pertaining to such individual's partners;

(c) ''Exposure evaluation group'' means at least three impartial health care providers, at least one of whom shall be a physician, designated by the chief administrator of a health facility, correctional facility or other institution to determine if a health care or other worker has been involved in a significant exposure. No member of the group shall be directly involved in the exposure;

(d) ''FDA'' means the United States Food and Drug Administration;

(e) ''Health care provider'' means any physician, dentist, nurse, provider of services for the mentally ill or persons with mental retardation, or other person involved in providing medical, nursing, counseling, or other health care, substance abuse or mental health service, including such services associated with, or under contract to, a health maintenance organization or medical services plan;

(f) ''Health facility'' means an institution, as defined in section 19a-490 of the general statutes, blood bank, blood center, sperm bank, organ or tissue bank, clinical laboratory or facility providing care or treatment to the mentally ill or persons with mental retardation or a facility for the treatment of substance abuse;

(g) ''HIV infection'' means infection with the human immunodeficiency virus or any other related virus identified as a probable causative agent of AIDS;

(h) ''HIV-related illness'' means any illness that may result from or may be associated with HIV infection;

(i) ''HIV-related test'' means any laboratory test or series of tests for any virus, antibody, antigen or etiologic agent whatsoever thought to cause or indicate the presence of HIV infection;

(j) ''Meaningful immediate action'' means any one of:

(1) the following actions related to drug therapy/prophylaxis–

(A) to start taking a drug that has been FDA approved for treatment of HIV related illness or has been approved for investigational use in humans for treatment of HIV-related illness, or to stop taking such drug if the source of the exposure tests negative for HIV, provided the drug:

(i) may prevent seroconversion in persons who have been exposed to HIV, or

(ii) may limit or ameliorate the effects of HIV infection,

(B) to enroll in an experimental trial to determine whether a certain drug is effective in lessening the risk of HIV infection when administered after a significant exposure; or

(2) the following actions related to pregnancy/breast-feeding–

(A) a woman's decision whether to continue with or terminate a pregnancy where information concerning the HIV status of the person who was the source of the exposure may affect this decision,

(B) a woman's decision regarding planning pregnancy, where delay of pregnancy for a period of 6 months to 1 year may have adverse consequences due to age or other medical factors or if the worker or the worker's partner has had difficulty conceiving, where information concerning the HIV status of the person who was the source of the exposure may affect this decision,

(C) a breast-feeding woman's decision concerning continuation of breast-feeding, where information concerning the HIV status of the person who was the source of the exposure may affect this decision; or

(3) the following other actions—actions which could be taken before the worker would be able to know whether he/she was infected as a result of the exposure, provided that such action must either:

(A) be medically beneficial or potentially medically beneficial to the exposed person or to another person, or

(B) prevent potential HIV transmission that could not be prevented by any other means;

(k) ''Partner'' means an identified spouse or sex partner of the protected individual or a person identified as having shared hypodermic needles or syringes with the protected individual;

(*l*) ''Protected individual'' means a person who has been counseled regarding HIV infection, or is the subject of an HIV-related test or who has been diagnosed as having HIV infection, AIDS or HIV-related illness;

(m) ''Release of confidential HIV-related information'' means a written authorization for disclosure of confidential HIV-related information which is signed by the protected individual or a person authorized to consent to health care for the individual and which is dated and specifies to whom disclosure is authorized, the purpose for such disclosure and the time period during which the release is to be effective. A general authorization for the release of medical or other information is not a release of confidential HIV-related information, unless such authorization specifically indicates its dual purpose as a general authorization and an authorization for the release of confidential HIV-related information and complies with the requirements of this subsection;

(n) ''Seroconversion'' means the development of antibodies in response to HIV infection;

(o) ''Significant exposure,'' means an exposure as defined in Section 19a-581 (14) of the general statutes and:

(1) contact between the mucous membranes (e.g. mouth or eyes) and at least one of the following: blood, a body fluid containing visible amounts of blood, cerebrospinal fluid, synovial fluid, pleural fluid, peritoneal fluid, pericardial fluid, amniotic fluid;

(2) contact through the skin (such as contact through an open wound or cut or by means of a needlestick or puncture wound injury) with at least one of the following: blood, a body fluid containing visible amounts of blood, cerebrospinal fluid, synovial fluid, pleural fluid, peritoneal fluid, pericardial fluid, amniotic fluid;

(3) contact of skin, especially when the exposed skin is chapped, abraded or afflicted with dermatitis or the contact is prolonged or involving an extensive area, with at least one of the following: blood, a body fluid containing visible amounts of blood, cerebrospinal fluid, synovial fluid, pleural fluid, peritoneal fluid, pericardial fluid, amniotic fluid;

(4) sexual assault (involving anal, vaginal or oral intercourse) on a worker in the course of his or her occupational duties;

(p) ''Significant exposure'' does not include:

(1) exposure to urine, feces, sputum, nasal secretions, saliva, sweat, tears, or vomitus, unless the fluid in question contains visible amounts of blood;

(2) human bites or scratches, unless there is direct blood to blood or blood to mucous membrane contact;

(3) any exposure that would otherwise constitute a significant exposure, if the person exposed already has HIV infection.

(Effective April 2, 1991)

Sec. 19a-589-2. Testing and disclosure without consent

HIV related testing without the consent of the test subject, or disclosure of confidential HIV-related information without obtaining a release from the protected individual, is permitted in cases where a health care provider or other person in the course of his or her occupational duties has had a significant exposure, provided that all of the criteria set forth in section 19a-582 (e) (5) (A) through (e) (5) (I) or section 19a-583 (a) (7) (A) through (7) (F) of the general statutes are met.

(Effective April 2, 1991)

Sec. 19a-589-3. Records maintained for occupational exposures

(a) A health facility, correctional facility, other institution, or physician shall maintain records concerning each review of a request for testing or disclosure made pursuant to these regulations. Such records shall include sufficient documentation to establish whether the criteria for the occupational exposure exception specified in section 19a-582 (e) (5) (A) through (e) (5) (I) or section 19a-583 (a) (7) (A) through (a) (7) (F) of the general statutes and the requirements of these regulations have been satisfied, including (where appropriate):

(1) an incident report completed by the worker within forty-eight (48) hours of the exposure identifying the parties to the exposure, witnesses, time, place and nature of the event;

(2) documentation that the worker obtained a baseline HIV test within seventy-two (72) hours of the exposure and was negative on such test;

(3) a statement that the person who was the source of the exposure refused to consent to testing or disclosure, or is deceased;

(4) a statement of the exposure evaluation group's or physician's reasons for determining that a significant exposure has occurred and;

(5) a statement that if results are known the worker would be able to take meaningful immediate action as defined in subsection 19a-589-1 (j) of these regulations which could not otherwise be taken.

(b) These records shall be maintained separately from the person's medical record or any other records maintained by the health facility, correctional facility, other institution, or physician concerning that person.

(1) Such records shall be securely maintained.

(2) Access to these records shall be limited to the physician or to persons designated by the director or chief administrator of the health facility, correctional facility, other institution, or physician.

(3) Such records shall be maintained for a length of time in accordance with federal and state law.

(c) The laboratory performing the HIV-related test shall maintain records of any test result obtained pursuant to these regulations to the extent required by federal and/or state law.

(d) When the person's physician obtains voluntary consent to testing after an occupational exposure, or when involuntary testing is authorized, as provided in section 19a-581 (e) (5) (D) of the general statutes, no record of the existence or results of the HIV-related test will appear in the person's medical or other records unless the test result is relevant to the medical care the person is receiving at that time, or the person makes a specific written request that the test result be recorded.

(1) If the person consents to testing, they shall be told during the informed consent discussion that the test result may be recorded in their medical record if it is relevant to the medical care they are receiving at that time or if they make a specific written request that the result be recorded.

(2) If the person has refused to consent to testing but involuntary testing as provided in section 19a-582 (e) (5) of the general statutes is authorized, at the time the person is offered their test result and provided with counseling as required by subsections (d) and (e) (5) (H) of said section, the person shall be informed that their test result may be recorded in their medical record if it is relevant to the medical care they are receiving at that time or if they make a specific written request that the test result be recorded.

(3) If the result is recorded because it is relevant to the medical care the person is receiving at that time, the physician's reasons for determining that the test result is relevant shall be documented.

(4) Test results shall not be recorded in a person's medical record for the purpose of enabling health care providers or other persons to avoid contact with, or take special precautions when coming into contact with that person.

(Effective April 2, 1991)