Florida
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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,

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&

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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)**.

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.

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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

Florida
A Quick Reference Guide for Clinicians to Florida HIV Testing Laws
April 8, 2011

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

Informed Consent

- Informed consent required; may be oral or in writing.

Counseling

- Counseling must be offered.

Provisos of Testing

- **Anonymous**
  - Testing must be made available anonymously.
  - Physicians must inform patients of availability of anonymous testing.
- **Rapid**
  - A confirmatory test is required before notifying the patient of HIV test result.
- **Routine**
  - Protocols must be made available by the Department to health care providers for offering HIV testing, on a voluntary basis, as a routine part of primary health care or admission to a health care facility.

Disclosure

- No specific provisions regarding disclosure were found.

Minor/Adolescent Testing

- Minors may consent to STD testing; HIV is explicitly included.

Florida
Perinatal Quick Reference Guide:
A Guide to Florida Perinatal HIV Testing Laws for Clinicians
April 8, 2011

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

- Testing of pregnant women in prenatal care is through the opt-out process; documentation of refusal to consent must be maintained in the patient's medical record.
    - **Initial visit**
        - Practitioners attending pregnant women shall cause HIV testing at their initial examination for the current pregnancy.
    - **Third trimester**
        - Practitioners attending pregnant women shall cause HIV testing at 28-32 weeks into gestation.

Labor & Delivery

- Women who appear at delivery or within 30 days postpartum with no prenatal care or no record of testing must be tested for HIV.

Neonatal

- No specific provisions regarding neonatal testing were found.

Other

- Emergency departments may satisfy testing by referring any woman identified as not receiving prenatal care after the 12th week of gestation to the county health department.

Florida
State Policies Relating to HIV Testing, 2011

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	Policy Category	Type	Section Code(s)
RESTRICTIONS/MANDATES	Restrictions on use of HIV test	Testing prohibited for employment/hiring purposes, unless HIV status is a bona fide qualification for the job	44 FS §760.50
		Restrictions on the release of preliminary test results	29 FS §381.004
	Mandatory testing within the criminal justice system	Potential transmission to victims	46 FS §775.0877
		All inmates	47 FS §945.355
		All prisoners suffering from or suspected of having an STD	29 FS §384.32
		Persons charged with a sex offense	47 FS §960.003
		Persons convicted of prostitution charges	46 FS §796.08
		All inmates upon release from prison	29 FS §381.004
		Part of probation, community control, or conditional release supervision of persons convicted of crimes involving sexual contact	47 FS §947.1405 47 FS §948.30
		Screening of source of officer exposure by court order if not voluntary	29 FS §384.287
	Mandatory testing outside of the criminal justice system	Blood, plasma, organ, skin or tissue donations	FAC 64D-2.005 29 FS §381.0041
		Health care employee exposure	29 FS §381.004

PRE-TESTING	Mandatory offering of HIV/AIDS information and/or testing	Employees of certain health care facilities must attend biennial educational session on HIV	29 FS §381.0035
		Certain health care licensees must complete continuing ed course on HIV and AIDS	32 FS §456.033
		Funeral directors and embalmers must attend educational session on HIV for every third biennial licensure renewal	29 FS §455.2226 33 FS §497.367
		State universities and Florida College System institution must provide HIV/AIDS information	48 FS §1002.21 48 FS §1006.50 48 FS §1006.68
	Informed consent	Informed consent required – verbal or written	29 FS §381.004 FAC 64D-2.004
		Exceptions to informed consent	29 FS §381.004
		Written consent required for insurance testing	37 FS §627.429
		Consent required for HMO testing	37 FS §641.3007
	Counseling requirements	Providers must offer counseling to patient	29 FS §381.004
		Post-test counseling with positive test result for insurance testing	37 FS §627.429
		Post-test counseling with positive test result for HMO testing	37 FS §641.3007
	Anonymous testing	Both anonymous and confidential testing offered	29 FS §381.004
		Health care provider must inform patient of availability of anonymous and confidential testing prior to test	29 FS §381.004
POST-TEST	Disclosure/confidentiality	Exceptions to confidentiality	29 FS §381.004 29 FS §384.29 FAC 64D-2.003
		Disclosure of HIV status of sex offender to victim	47 FS §951.27
	Reporting	HIV diagnoses must be reported within two weeks	29 FS §384.25
OTHER	Testing of pregnant women and/or newborns	Pregnant women in prenatal care – opt-out testing, written statement of objection must be placed in medical record	29 FS §384.31
		Practitioners attending pregnant	FAC 64D-3.042

		women shall cause HIV testing at their initial examination for the current pregnancy and 28-32 weeks into gestation	
		Women who appear at delivery or within 30 days postpartum with no prenatal care or no record of testing must be tested for HIV	FAC 64D-3.042
		Emergency departments may satisfy testing by referring any woman identified as not receiving prenatal care after the 12th week of gestation to the county health department	FAC 64D-3.042
	Testing of minors/adolescents	Minors may consent to treatment for STDs, HIV explicitly included	29 FS §384.30
	Rapid HIV testing	Confirmatory testing must be conducted as followup	29 FS §381.004
	Training and education of health care providers	Providers must complete educational course approved by department	29 FS §381.0034
		Department must make protocols available to health care providers for offering HIV testing, on a voluntary basis, as a routine part of primary health care or admission to a health care facility.	29 FS § 381.004
		New health care employees shall complete a course on HIV and AIDS	29 FS §381.0034 29 FS §381.0035
		EMT and paramedic training shall include a 4-hour course on HIV/AIDS	29 FS §401.2701

Recommended Resources

Online Sunshine: Florida Legislature, Statutes and Constitution
http://www.leg.state.fl.us/Statutes/index.cfm?Tab=statutes&submenu=-1

Florida Administrative Code
https://www.flrules.org/Default.asp

Florida Department of Health
http://www.doh.state.fl.us/

Title 29: Public Health

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§ 381.0034	**Requirement for instruction on HIV and AIDS** (1) As of July 1, 1991, the Department of Health shall require each person licensed or certified under chapter 401, chapter 467, part IV of chapter 468, or chapter 483, as a condition of biennial relicensure, to complete an educational course approved by the department on the modes of transmission, infection control procedures, clinical management, and prevention of human immunodeficiency virus and acquired immune deficiency syndrome. Such course shall include information on current Florida law on acquired immune deficiency syndrome and its impact on testing, confidentiality of test results, and treatment of patients. Each such licensee or certificateholder shall submit confirmation of having completed said course, on a form provided by the department, when submitting fees or application for each biennial renewal. (2) Failure to complete the requirements of this section shall be grounds for disciplinary action contained in the chapters specified in subsection (1). In addition to discipline by the department, the licensee or certificateholder shall be required to complete said course. (3) The department shall require, as a condition of granting a license under the chapters specified in subsection (1), that an applicant making initial application for licensure complete an educational course acceptable to the department on human immunodeficiency virus and acquired immune deficiency syndrome. An applicant who has not taken a course at the time of licensure shall, upon an affidavit showing good cause, be allowed 6 months to complete this requirement. (4) The department shall have the authority to adopt rules to carry out the provisions of this section. (5) Any professional holding two or more licenses or certificates subject to the provisions of this section shall be permitted to show proof of having taken one department-approved course on human immunodeficiency virus and acquired immune deficiency syndrome, for purposes of relicensure or recertification for the additional licenses.
§ 381.0035	**Educational course on HIV and AIDS; employees and clients of certain health care facilities** (1) The Department of Health shall require all employees and clients of facilities licensed under chapters 393, 394, and 397 and employees of facilities licensed under chapter 395 parts II, III, and IV, and of chapter 400 and Part I of chapter 429 to complete, biennially, a continuing educational course on the modes of transmission, infection control procedures, clinical management, and prevention of human

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	immunodeficiency virus and acquired immune deficiency syndrome with an emphasis on appropriate behavior and attitude change. Such instruction shall include information on current Florida law and its impact on testing, confidentiality of test results, and treatment of patients and any protocols and procedures applicable to human immunodeficiency counseling and testing, reporting, the offering of HIV testing to pregnant women, and partner notification issues pursuant to ss. 381.004 and 384.25. (2) New employees shall be required to complete a course on human immunodeficiency virus and acquired immune deficiency syndrome, with instruction to include information on current Florida law and its impact on testing, confidentiality of test results, and treatment of patients. (3) Facilities licensed under chapters 393, 394, 395, and 397, parts II, III, and IV, of chapter 400, and Part I of chapter 429 shall maintain a record of employees and dates of attendance at human immunodeficiency virus and acquired immune deficiency syndrome educational courses. (4) The department shall have the authority to review the records of each facility to determine compliance with the requirements of this section. The department may adopt rules to carry out the provisions of this section.
§ 381.004	**HIV testing** (1) *LEGISLATIVE INTENT.* --The Legislature finds that the use of tests designed to reveal a condition indicative of human immunodeficiency virus infection can be a valuable tool in protecting the public health. The Legislature finds that despite existing laws, regulations, and professional standards which require or promote the informed, voluntary, and confidential use of tests designed to reveal human immunodeficiency virus infection, many members of the public are deterred from seeking such testing because they misunderstand the nature of the test or fear that test results will be disclosed without their consent. The Legislature finds that the public health will be served by facilitating informed, voluntary, and confidential use of tests designed to detect human immunodeficiency virus infection. (2) *DEFINITIONS.* --As used in this section: (a) "HIV test" means a test ordered after July 6, 1988, to determine the presence of the antibody or antigen to human immunodeficiency virus or the presence of human immunodeficiency virus infection. (b) "HIV test result" means a laboratory report of a human immunodeficiency virus test result entered into a medical record on or after July 6, 1988, or any report or notation in a medical record of a laboratory report of a human immunodeficiency virus test. As used in this section, the term "HIV test result" does not include test results reported to a health care provider by a patient.

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	(c) "Significant exposure" means: 1. Exposure to blood or body fluids through needlestick, instruments, or sharps; 2. Exposure of mucous membranes to visible blood or body fluids, to which universal precautions apply according to the National Centers for Disease Control and Prevention, including, without limitations, the following body fluids: a. Blood. b. Semen. c. Vaginal secretions. d. Cerebro-spinal fluid (CSF). e. Synovial fluid. f. Pleural fluid. g. Peritoneal fluid. h. Pericardial fluid. i. Amniotic fluid. j. Laboratory specimens that contain HIV (e.g., suspensions of concentrated virus); or 3. Exposure of skin to visible blood or body fluids, especially when the exposed skin is chapped, abraded, or afflicted with dermatitis or the contact is prolonged or involving an extensive area. (d) "Preliminary HIV test" means an antibody screening test, such as the enzyme-linked immunosorbent assays (ELISAs) or the Single-Use Diagnostic System (SUDS). (e) "Test subject" or "subject of the test" means the person upon whom an HIV test is performed, or the person who has legal authority to make health care decisions for the test subject. (3) *HUMAN IMMUNODEFICIENCY VIRUS TESTING; INFORMED CONSENT; RESULTS; COUNSELING; CONFIDENTIALITY.* (a) No person in this state shall order a test designed to identify the human immunodeficiency virus, or its antigen or antibody, without first obtaining the informed consent of the person upon whom the test is being performed, except as specified in paragraph (h). Informed consent shall be preceded by an explanation of the right to confidential treatment of information identifying the subject of the test and the results of the test to the extent provided by law. Information shall also be provided on the fact that a positive HIV test result will be reported to the county health department with sufficient information to identify the test subject and on the availability and location of sites at which anonymous testing is performed. As required in paragraph (4)(c), each county health department shall maintain a list of sites at which anonymous testing is performed, including the locations, phone numbers, and hours of operation of the sites. Consent need not be in writing provided there is documentation in the medical record that the test has been explained and the consent has been obtained. (b) Except as provided in paragraph (h), informed consent must be obtained from a legal guardian or other person authorized by law when the person: 1. Is not competent, is incapacitated, or is otherwise unable to make

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	an informed judgment; or 2. Has not reached the age of majority, except as provided in s. 384.30. (c) The person ordering the test or that person's designee shall ensure that all reasonable efforts are made to notify the test subject of his or her test result. Notification of a person with a positive test result shall include information on the availability of appropriate medical and support services, on the importance of notifying partners who may have been exposed, and on preventing transmission of HIV. Notification of a person with a negative test result shall include, as appropriate, information on preventing the transmission of HIV. When testing occurs in a hospital emergency department, detention facility, or other facility and the test subject has been released before being notified of positive test results, informing the county health department for that department to notify the test subject fulfills this responsibility. (d) A positive preliminary test result may not be revealed to any person, except in the following situations: 1. Preliminary test results may be released to licensed physicians or the medical or nonmedical personnel subject to the significant exposure for purposes of subparagraphs (h)10., 11., and 12. 2. Preliminary test results may be released to health care providers and to the person tested when decisions about medical care or treatment of, or recommendation to, the person tested and, in the case of an intrapartum or postpartum woman, when care, treatment, or recommendations regarding her newborn, cannot await the results of confirmatory testing. Positive preliminary HIV test results shall not be characterized to the patient as a diagnosis of HIV infection. Justification for the use of preliminary test results must be documented in the medical record by the health care provider who ordered the test.. 3. The results of rapid testing technologies shall be considered preliminary and may be released in accordance with the manufacturer's instructions as approved by the federal Food and Drug Administration 4. Corroborating or confirmatory testing must be conducted as followup to a positive preliminary test. Results shall be communicated to the patient according to statute regardless of the outcome. Except as provided in this section, test results are confidential and exempt from the provisions of s. 119.07(1). (e) Except as provided in this section, the identity of any person upon whom a test has been performed and test results are confidential and exempt from the provisions of s. 119.07(1). No person who has obtained or has knowledge of a test result pursuant to this section may disclose or be compelled to disclose the identity of any person upon whom a test is performed, or the results of such a test in a manner which permits identification of the subject of the test, except to the following persons: 1. The subject of the test or the subject's legally authorized representative. 2. Any person, including third-party payors, designated in a legally effective release of the test results executed prior to or after the test by the subject of the test or the subject's legally authorized representative. The test subject may in writing authorize the disclosure of the test

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	subject's HIV test results to third party payors, who need not be specifically identified, and to other persons to whom the test subject subsequently issues a general release of medical information. A general release without such prior written authorization is not sufficient to release HIV test results. 3. An authorized agent or employee of a health facility or health care provider if the health facility or health care provider itself is authorized to obtain the test results, the agent or employee participates in the administration or provision of patient care or handles or processes specimens of body fluids or tissues, and the agent or employee has a need to know such information. The department shall adopt a rule defining which persons have a need to know pursuant to this subparagraph. 4. Health care providers consulting between themselves or with health care facilities to determine diagnosis and treatment. For purposes of this subparagraph, health care providers shall include licensed health care professionals employed by or associated with state, county, or municipal detention facilities when such health care professionals are acting exclusively for the purpose of providing diagnoses or treatment of persons in the custody of such facilities. 5. The department, in accordance with rules for reporting and controlling the spread of disease, as otherwise provided by state law. 6. A health facility or health care provider which procures, processes, distributes, or uses: a. A human body part from a deceased person, with respect to medical information regarding that person; or b. Semen provided prior to July 6, 1988, for the purpose of artificial insemination. 7. Health facility staff committees, for the purposes of conducting program monitoring, program evaluation, or service reviews pursuant to chapters 395 and 766. 8. Authorized medical or epidemiological researchers who may not further disclose any identifying characteristics or information. 9. A person allowed access by a court order which is issued in compliance with the following provisions: a. No court of this state shall issue such order unless the court finds that the person seeking the test results has demonstrated a compelling need for the test results which cannot be accommodated by other means. In assessing compelling need, the court shall weigh the need for disclosure against the privacy interest of the test subject and the public interest which may be disserved by disclosure which deters blood, organ, and semen donation and future human immunodeficiency virus-related testing or which may lead to discrimination. This paragraph shall not apply to blood bank donor records. b. Pleadings pertaining to disclosure of test results shall substitute a pseudonym for the true name of the subject of the test. The disclosure to the parties of the subject's true name shall be communicated confidentially in documents not filed with the court. c. Before granting any such order, the court shall provide the individual whose test result is in question with notice and a reasonable

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	opportunity to participate in the proceedings if he or she is not already a party. d. Court proceedings as to disclosure of test results shall be conducted in camera, unless the subject of the test agrees to a hearing in open court or unless the court determines that a public hearing is necessary to the public interest and the proper administration of justice. e. Upon the issuance of an order to disclose test results, the court shall impose appropriate safeguards against unauthorized disclosure which shall specify the persons who may have access to the information, the purposes for which the information shall be used, and appropriate prohibitions on future disclosure. 10. A person allowed access by order of a judge of compensation claims of the Division of Administrative Hearings. A judge of compensation claims shall not issue such order unless he or she finds that the person seeking the test results has demonstrated a compelling need for the test results which cannot be accommodated by other means. 11. Those employees of the department or of child-placing or child-caring agencies or of family foster homes, licensed pursuant to s. 409.175, who are directly involved in the placement, care, control, or custody of such test subject and who have a need to know such information; adoptive parents of such test subject; or any adult custodian, any adult relative, or any person responsible for the child's welfare, if the test subject was not tested under subparagraph (b)2. and if a reasonable attempt has been made to locate and inform the legal guardian of a test result. The department shall adopt a rule to implement this subparagraph. 12. Those employees of residential facilities or of community-based care programs that care for developmentally disabled persons, pursuant to chapter 393, who are directly involved in the care, control, or custody of such test subject and who have a need to know such information. 13. A health care provider involved in the delivery of a child can note the mother's HIV test results in the child's medical record. 14. Medical personnel or nonmedical personnel who have been subject to a significant exposure during the course of medical practice or in the performance of professional duties, or individuals who are the subject of the significant exposure as provided in subparagraphs (h)10.-12. 15. The medical examiner shall disclose positive HIV test results to the department in accordance with rules for reporting and controlling the spread of disease. (f) Except as provided in this section, the identity of a person upon whom a test has been performed is confidential and exempt from the provisions of s. 119.07(1). No person to whom the results of a test have been disclosed may disclose the test results to another person except as authorized by this subsection and by ss. 951.27 and 960.003. Whenever disclosure is made pursuant to this subsection, it shall be accompanied by a statement in writing which includes the following or substantially similar language: "This information has been disclosed to you from records whose confidentiality is protected by state law. State law

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	prohibits you from making any further disclosure of such information without the specific written consent of the person to whom such information pertains, or as otherwise permitted by state law. A general authorization for the release of medical or other information is NOT sufficient for this purpose." An oral disclosure shall be accompanied by oral notice and followed by a written notice within 10 days, except that this notice shall not be required for disclosures made pursuant to subparagraphs (e)3. and 4. (g) Human immunodeficiency virus test results contained in the medical records of a hospital licensed under chapter 395 may be released in accordance with s. 395.3025 without being subject to the requirements of subparagraph (e)2., subparagraph (e)9., or paragraph (f); provided the hospital has obtained written informed consent for the HIV test in accordance with provisions of this section. (h) Notwithstanding the provisions of paragraph (a), informed consent is not required: 1. When testing for sexually transmissible diseases is required by state or federal law, or by rule including the following situations: a. HIV testing pursuant to s. 796.08 of persons convicted of prostitution or of procuring another to commit prostitution. b. HIV testing of inmates pursuant to s. 945.355 prior to their release from prison by reason of parole, accumulation of gain-time credits, or expiration of sentence. c. Testing for HIV by a medical examiner in accordance with s. 406.11. 2. Those exceptions provided for blood, plasma, organs, skin, semen, or other human tissue pursuant to s. 381.0041. 3. For the performance of an HIV-related test by licensed medical personnel in bona fide medical emergencies when the test results are necessary for medical diagnostic purposes to provide appropriate emergency care or treatment to the person being tested and the patient is unable to consent, as supported by documentation in the medical record. Notification of test results in accordance with paragraph (c) is required. 4. For the performance of an HIV-related test by licensed medical personnel for medical diagnosis of acute illness where, in the opinion of the attending physician, obtaining informed consent would be detrimental to the patient, as supported by documentation in the medical record, and the test results are necessary for medical diagnostic purposes to provide appropriate care or treatment to the person being tested. Notification of test results in accordance with paragraph (c) is required if it would not be detrimental to the patient. This subparagraph does not authorize the routine testing of patients for HIV infection without informed consent. 5. When HIV testing is performed as part of an autopsy for which consent was obtained pursuant to s. 872.04. 6. For the performance of an HIV test upon a defendant pursuant to the victim's request in a prosecution for any type of sexual battery where a blood sample is taken from the defendant voluntarily, pursuant to court order for any purpose, or pursuant to the provisions of s. 775.0877, s. 951.27, or s. 960.003; however, the results of any HIV test performed

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	shall be disclosed solely to the victim and the defendant, except as provided in ss. 775.0877, 951.27, and 960.003. 7. When an HIV test is mandated by court order. 8. For epidemiological research pursuant to s. 381.0032, for research consistent with institutional review boards created by 45 C.F.R. part 46, or for the performance of an HIV-related test for the purpose of research, if the testing is performed in a manner by which the identity of the test subject is not known and may not be retrieved by the researcher. 9. When human tissue is collected lawfully without the consent of the donor for corneal removal as authorized by s. 765.5185 or enucleation of the eyes as authorized by s. 765.519. 10. For the performance of an HIV test upon an individual who comes into contact with medical personnel in such a way that a significant exposure has occurred during the course of employment or within the scope of practice and where a blood sample is available that was taken from that individual voluntarily by medical personnel for other purposes. The term "medical personnel" includes a licensed or certified health care professional; an employee of a health care professional or health care facility; employees of a laboratory licensed under chapter 483; personnel of a blood bank or plasma center; a medical student or other student who is receiving training as a health care professional at a health care facility; and a paramedic or emergency medical technician certified by the department to perform life-support procedures under s. 401.23. a. Prior to performance of an HIV test on a voluntarily obtained blood sample, the individual from whom the blood was obtained shall be requested to consent to the performance of the test and to the release of the results. If consent cannot be obtained within the time necessary to perform the HIV test and begin prophylactic treatment of the exposed medical personnel, all information concerning the performance of an HIV test and any HIV test result shall be documented only in the medical personnel's record unless the individual gives written consent to entering this information on the individual's medical record. b. Reasonable attempts to locate the individual and to obtain consent shall be made, and all attempts must be documented. If the individual cannot be found or is incapable of providing consent, an HIV test may be conducted on the available blood sample. If the individual does not voluntarily consent to the performance of an HIV test, the individual shall be informed that an HIV test will be performed, and counseling shall be furnished as provided in this section. However, HIV testing shall be conducted only after appropriate medical personnel under the supervision of a licensed physician documents, in the medical record of the medical personnel, that there has been a significant exposure and that, in accordance with the written protocols based on the National Centers for Disease Control and Prevention guidelines on HIV postexposure prophylaxis and in the physician's medical judgment, the information is medically necessary to determine the course of treatment for the medical personnel. c. Costs of any HIV test of a blood sample performed with or without the consent of the individual, as provided in this subparagraph,

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	shall be borne by the medical personnel or the employer of the medical personnel. However, costs of testing or treatment not directly related to the initial HIV tests or costs of subsequent testing or treatment may not be borne by the medical personnel or the employer of the medical personnel. d. In order to utilize the provisions of this subparagraph, the medical personnel must either be tested for HIV pursuant to this section or provide the results of an HIV test taken within 6 months prior to the significant exposure if such test results are negative. e. A person who receives the results of an HIV test pursuant to this subparagraph shall maintain the confidentiality of the information received and of the persons tested. Such confidential information is exempt from s. 119.07(1). f. If the source of the exposure will not voluntarily submit to HIV testing and a blood sample is not available, the medical personnel or the employer of such person acting on behalf of the employee may seek a court order directing the source of the exposure to submit to HIV testing. A sworn statement by a physician licensed under chapter 458 or chapter 459 that a significant exposure has occurred and that, in the physician's medical judgment, testing is medically necessary to determine the course of treatment constitutes probable cause for the issuance of an order by the court. The results of the test shall be released to the source of the exposure and to the person who experienced the exposure. 11. For the performance of an HIV test upon an individual who comes into contact with medical personnel in such a way that a significant exposure has occurred during the course of employment or within the scope of practice of the medical personnel while the medical personnel provides emergency medical treatment to the individual; or nothwithstanding s. 384.287, an individual who comes into contact with nonmedical personnel in such a way that a significant exposure has occurred while the nonmedical personnel provides emergency medical assistance during a medical emergency. For the purposes of this subparagraph, a medical emergency means an emergency medical condition outside of a hospital or health care facility that provides physician care. The test may be performed only during the course of treatment for the medical emergency. a. An individual who is capable of providing consent shall be requested to consent to an HIV test prior to the testing. If consent cannot be obtained within the time necessary to perform the HIV test and begin prophylactic treatment of the exposed medical personnel and nonmedical personnel, all information concerning the performance of an HIV test and its result, shall be documented only in the medical personnel's or nonmedical personnel's record unless the individual gives written consent to entering this information on the individual's medical record. b. HIV testing shall be conducted only after appropriate medical personnel under the supervision of a licensed physician documents, in the medical record of the medical personnel or nonmedical personnel, that there has been a significant exposure and that, in accordance with the written protocols based on the National Centers for Disease Control

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	and Prevention guidelines on HIV postexposures prophylaxis and in the physician's medical judgment, the information is medically necessary to determine the course of treatment for the medical personnel or nonmedical personnel. c. Costs of any HIV test performed with or without the consent of the individual, as provided in this subparagraph, shall be borne by the medical personnel or the employer of the medical personnel or nonmedical personnel. However, costs of testing or treatment not directly related to the initial HIV tests or costs of subsequent testing or treatment may not be borne by the medical personnel or the employer of the medical personnel or nonmedical personnel. d. In order to utilize the provisions of this subparagraph, the medical personnel or nonmedical personnel shall be tested for HIV pursuant to this section or shall provide the results of an HIV test taken within 6 months prior to the significant exposure if such test results are negative. e. A person who receives the results of an HIV test pursuant to this subparagraph shall maintain the confidentiality of the information received and of the persons tested. Such confidential information is exempt from s. 119.07(1). f. If the source of the exposure will not voluntarily submit to HIV testing and a blood sample was not obtained during treatment for the medical emergency, the medical personnel, the employer of the medical personnel acting on behalf of the employee, or the nonmedical personnel may seek a court order directing the source of the exposure to submit to HIV testing. A sworn statement by a physician licensed under chapter 458 or chapter 459 that a significant exposure has occurred and that, in the physician's medical judgment, testing is medically necessary to determine the course of treatment constitutes probable cause for the issuance of an order by the court. The results of the test shall be released to the source of the exposure and to the person who experienced the exposure. 12. For the performance of an HIV test by the medical examiner or attending physician upon an individual who expired or could not be resuscitated while receiving emergency medical assistance or care and who was the source of a significant exposure to medical or nonmedical personnel providing such assistance or care. a. HIV testing may be conducted only after appropriate medical personnel under the supervision of a licensed physician documents in the medical record of the medical personnel or nonmedical personnel that there has been a significant exposure and that, in accordance with the written protocols based on the National Centers for Disease Control and Prevention guidelines on HIV post-exposures prophylaxis and in the physician's medical judgment, the information is medically necessary to determine the course of treatment for the medical personnel or nonmedical personnel. b. Costs of any HIV test performed under this subparagraph may not be charged to the deceased or to the family of the deceased person. c. For the provisions of this subparagraph to be applicable, the medical personnel or nonmedical personnel must be tested for HIV under

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	this section or must provide the results of an HIV test taken within 6 months before the significant exposure if such test results are negative. d. A person who receives the results of an HIV test pursuant to this subparagraph shall comply with paragraph (e). 13. For the performance of an HIV-related test medically indicated by licensed medical personnel for medical diagnosis of a hospitalized infant as necessary to provide appropriate care and treatment of the infant when, after a reasonable attempt, a parent cannot be contacted to provide consent. The medical records of the infant shall reflect the reason consent of the parent was not initially obtained. Test results shall be provided to the parent when the parent is located. 14. For the performance of HIV testing conducted to monitor the clinical progress of a patient previously diagnosed to be HIV positive. 15. For the performance of repeated HIV testing conducted to monitor possible conversion from a significant exposure. (4) *COUNTY HEALTH DEPARTMENT NETWORK OF VOLUNTARY HUMAN IMMUNODEFICIENCY VIRUS TESTING PROGRAMS.* (a) The Department of Health shall establish a network of voluntary human immunodeficiency virus testing programs in every county in the state. These programs shall be conducted in each health department established under the provisions of part I of chapter 154. Additional programs may be contracted to other private providers to the extent that finances permit and local circumstances dictate. (b) Each county health department shall have the ability to provide counseling and testing for human immunodeficiency virus to each patient who receives services and shall offer such testing on a voluntary basis to each patient who presents himself or herself for services in a public health program designated by the State Health Officer by rule. (c) Each county health department shall provide a program of counseling and testing for human immunodeficiency virus infection, on both an anonymous and confidential basis. Counseling provided to a patient tested on both an anonymous and confidential basis shall include informing the patient of the availability of partner-notification services, the benefits of such services, and the confidentiality protections available as part of such services. The Department of Health or its designated agent shall continue to provide for anonymous testing through an alternative testing site program with sites throughout all areas of the state. Each county health department shall maintain a list of anonymous testing sites. The list shall include the locations, phone numbers, and hours of operation of the sites and shall be disseminated to all persons and programs offering human immunodeficiency virus testing within the service area of the county health department, including physicians licensed under chapter 458 or chapter 459. Except as provided in this section, the identity of a person upon whom a test has been performed and test results are confidential and exempt from the provisions of s. 119.07(1). (d) The result of a serologic test conducted under the auspices of the Department of Health shall not be used to determine if a person may be insured for disability, health, or life insurance or to screen or determine

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	suitability for, or to discharge a person from, employment. Any person who violates the provisions of this subsection is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. (5) *HUMAN IMMUNODEFICIENCY VIRUS TESTING REQUIREMENTS; REGISTRATION WITH THE DEPARTMENT OF HEALTH; EXEMPTIONS FROM REGISTRATION.* --No county health department and no other person in this state shall conduct or hold themselves out to the public as conducting a testing program for acquired immune deficiency syndrome or human immunodeficiency virus status without first registering with the Department of Health, reregistering each year, complying with all other applicable provisions of state law, and meeting the following requirements: (a) The program must be directed by a person with a minimum number of contact hours of experience in the counseling of persons with acquired immune deficiency syndrome or human immunodeficiency virus infection, as established by the Department of Health by rule. (b) The program must have all medical care supervised by a physician licensed under the provisions of chapter 458 or chapter 459. (c) The program shall have all laboratory procedures performed in a laboratory licensed under the provisions of chapter 483. (d) The program must meet all the informed consent criteria contained in subsection (3). (e) The program must provide the opportunity for pretest counseling on the meaning of a test for human immunodeficiency virus, including medical indications for the test; the possibility of false positive or false negative results; the potential need for confirmatory testing; the potential social, medical, and economic consequences of a positive test result; and the need to eliminate high-risk behavior. (f) The program must provide supplemental corroborative testing on all positive test results before the results of any positive test are provided to the patient. Except as provided in this section, the identity of any person upon whom a test has been performed and test results are confidential and exempt from the provisions of s. 119.07(1). (g) The program must provide the opportunity for face-to-face posttest counseling on the meaning of the test results; the possible need for additional testing; the social, medical, and economic consequences of a positive test result; and the need to eliminate behavior which might spread the disease to others. (h) Each person providing posttest counseling to a patient with a positive test result shall receive specialized training, to be specified by rule of the department, about the special needs of persons with positive results, including recognition of possible suicidal behavior, and shall refer the patient for further health and social services as appropriate. (i) When services are provided for a charge during pretest counseling, testing, supplemental testing, and posttest counseling, the program must provide a complete list of all such charges to the patient and the Department of Health. (j) Nothing in this subsection shall be construed to require a facility licensed under chapter 483 or a person licensed under the provisions of

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	chapter 457, chapter 458, chapter 459, chapter 460, chapter 461, chapter 466, or chapter 467 to register with the Department of Health if he or she does not advertise or hold himself or herself out to the public as conducting testing programs for human immunodeficiency virus infection or specializing in such testing. (k) The department shall deny, suspend, or revoke the registration of any person or agency that violates this section, or any rule adopted under this section, constituting an emergency affecting the immediate health, safety, and welfare of a person receiving service. (6) *PENALTIES.* (a) Any violation of this section by a facility or licensed health care provider shall be a ground for disciplinary action contained in the facility's or professional's respective licensing chapter. (b) Any person who violates the confidentiality provisions of this section and s. 951.27 commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. (c) Any person who obtains information that identifies an individual who has a sexually transmissible disease including human immunodeficiency virus or acquired immunodeficiency syndrome, who knew or should have known the nature of the information and maliciously, or for monetary gain, disseminates this information or otherwise makes this information known to any other person, except by providing it either to a physician or nurse employed by the department or to a law enforcement agency, commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083. (7) *EXEMPTIONS.* --Except as provided in paragraph (4)(d) and ss. 627.429 and 641.3007, insurers and others participating in activities related to the insurance application and underwriting process shall be exempt from this section. (8) *MODEL PROTOCOL FOR COUNSELING AND TESTING FOR HUMAN IMMUNODEFICIENCY VIRUS.* --The Department of Health shall develop, by rule, a model protocol consistent with the provisions of this section for counseling and testing persons for the human immunodeficiency virus. The protocol shall include criteria for evaluating a patient's risk for human immunodeficiency virus infection and for offering human immunodeficiency virus testing, on a voluntary basis, as a routine part of primary health care or admission to a health care facility. The Department of Health shall ensure that the protocols developed under this section are made available to health care providers. (9) *FEES.* (a) Each person or private organization registered as an AIDS or HIV testing site shall pay the department a fee which shall be set by rule of the department. (b) Fees established pursuant to paragraph (a) shall be an amount sufficient to meet all costs incurred by the department in carrying out its registration, data collection, complaint monitoring, and administrative

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	responsibilities under this section, for all private AIDS or HIV testing sites, but shall not exceed $ 100. (c) No other fees shall be charged by other governmental agencies for these purposes. (10) *RULES.* --The Department of Health may adopt rules to implement this section, including definitions of terms, procedures for accessing confidential information, requirements for testing, and requirements for registered testing sites. (11) *TESTING AS A CONDITION OF TREATMENT OR ADMISSION.* (a) It is unlawful for any facility the operation of which, or for any person engaged in an occupation the practice of which, requires a license by the Agency for Health Care Administration, the Department of Health, or the Department of Business and Professional Regulation, to require any person to take or submit to a human immunodeficiency virus-related test as a condition of admission to any such facility or as a condition of purchasing or obtaining any service or product for which the license is required. This subsection shall not be construed to prohibit any physician in good faith from declining to provide a particular treatment requested by a patient if the appropriateness of that treatment can only be determined through a human immunodeficiency virus-related test. (b) The Agency for Health Care Administration, the Department of Health, and the Department of Business and Professional Regulation shall adopt rules implementing this subsection. (c) Any violation of this subsection or the rules implementing it shall be punishable as provided in subsection (6).
§ 381.0041	**Donation and transfer of human tissue; testing requirements.--** (1) Every donation of blood, plasma, organs, skin, or other human tissue for transfusion or transplantation to another shall be tested prior to transfusion or other use for human immunodeficiency virus infection and other communicable diseases specified by rule of the Department of Health. Tests for the human immunodeficiency virus infection shall be performed only after obtaining written, informed consent from the potential donor or the donor's legal representative. Such consent may be given by a minor pursuant to s. 743.06. Obtaining consent shall include a fair explanation of the procedures to be followed and the meaning and use of the test results. Such explanation shall include a description of the confidential nature of the test as described in s. 381.004(3). If consent for testing is not given, then the person shall not be accepted as a donor except as otherwise provided in subsection (3). (2) Notwithstanding the provisions of subsection (1), written, informed consent to perform testing shall not be required: (a) When the blood, plasma, organ, skin, or other human tissue is received for processing or testing from an out-of-state blood bank; (b) When blood or tissue is received from a health care facility or health care provider for reference testing or processing and the results of

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	such test are reported back to the facility or provider; or (c) When an unrevoked anatomical gift has been made pursuant to s. 765.514, by will or other written instrument, and the donor is deceased or incompetent. (3) No person shall collect any blood, organ, skin, or other human tissue from one human being and hold it for, or actually perform, any implantation, transplantation, transfusion, grafting, or any other method of transfer to another human being without first testing such tissue for the human immunodeficiency virus and other communicable diseases specified by rule of the Department of Health, or without performing another process approved by rule of the Department of Health capable of killing the causative agent of those diseases specified by rule. Such testing shall not be required: (a) When there is insufficient time to perform testing because of a life-threatening emergency circumstance and the blood is transferred with the recipient's informed consent. (b) For a donation of semen made by the spouse of a recipient for the purposes of artificial insemination or other reproductive procedure. (c) When there is insufficient time to obtain the results of a confirmatory test for any tissue or organ which is to be transplanted, notwithstanding the provisions of s. 381.004(3)(d). In such circumstances, the results of preliminary screening tests may be released to the potential recipient's treating physician for use in determining organ or tissue suitability. (4) All human blood, organs, skin, or other human tissue which is to be transfused or transplanted to another and is found positive for human immunodeficiency virus or other communicable disease specified by rule of the Department of Health shall be rendered noncommunicable by the person holding the tissue or shall be destroyed, unless the human tissue is specifically labeled to identify the human immunodeficiency virus and: (a) Is used for research purposes; or (b) Is used to save the life of another and is transferred with the recipient's informed consent. (5) Each person who collects human blood, organs, skin, or other human tissue who finds evidence after confirmatory testing of human immunodeficiency virus in the donor shall notify the donor of the presence of the virus. When notifying the donor pursuant to this requirement, the donor shall be provided the following information: (a) The meaning of the test results; (b) Measures for the prevention of the transmission of the human immunodeficiency virus; (c) The availability in the geographic area of any appropriate health care services, including mental health care, and appropriate social and support services; (d) The benefits of locating and counseling any individual by whom the infected individual may have been exposed to human immunodeficiency virus and any individual whom the infected individual

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	may have exposed to the virus; and (e) The availability, if any, of the services of public health authorities with respect to locating and counseling any individual described in paragraph (d). (6) Human immunodeficiency virus tests performed pursuant to autologous blood donations which have not been confirmed as positive by confirmatory testing may be revealed to the donor's treating physician when such test results may be necessary for the diagnosis, treatment, or care of the donor. (7) Any blood donor who tests positive for human immunodeficiency virus based upon confirmatory testing shall be notified in the following manner: (a) The donor shall be sent written notification by certified mail that abnormal test results exist with respect to his or her blood donation, and the blood bank shall offer the opportunity to discuss the nature and significance of the findings by telephone or in person. (b) If the blood bank does not receive a response from the donor within 30 days, it shall send the actual test results and the information required by subsection (5) to the donor by certified mail. (8) The Department of Health shall develop, in conjunction with persons who collect human tissue, a model protocol for providing the information required in subsection (5). (9) All blood banks shall be governed by the confidentiality provisions of s. 381.004(3). (10) The Department of Health is authorized to adopt rules to implement this section. In adopting rules pertaining to this section, the department shall consider the rules of the United States Food and Drug Administration and shall conform to those rules to the extent feasible without jeopardizing the public health. (11) (a) Any person who fails to test blood, plasma, organs, skin, or other human tissue which is to be transfused or transplanted, or violates the confidentiality provisions required by this section, is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. (b) Any person who has human immunodeficiency virus infection, who knows he or she is infected with human immunodeficiency virus, and who has been informed that he or she may communicate this disease by donating blood, plasma, organs, skin, or other human tissue who donates blood, plasma, organs, skin, or other human tissue is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. (12) Prior to the transplant of an organ or artificial insemination, the institution or physician responsible for overseeing the procedure must

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	provide the prospective recipient a warning as to the risks of contracting human immunodeficiency virus.
§ 381.0045	**Targeted outreach for pregnant women** (1) This section may be cited as the "Targeted Outreach for Pregnant Women Act of 1998." (2) It is the purpose of this section to establish a targeted outreach program for high-risk pregnant women who may not seek proper prenatal care, who suffer from substance abuse problems, or who are infected with human immunodeficiency virus (HIV), and to provide these women with links to much needed services and information. (3) The department shall: (a) Conduct outreach programs through contracts with, grants to, or other working relationships with persons or entities where the target population is likely to be found. (b) Provide outreach that is peer-based, culturally sensitive, and performed in a nonjudgmental manner. (c) Encourage high-risk pregnant women of unknown status to be tested for HIV. (d) Educate women not receiving prenatal care as to the benefits of such care. (e) Provide HIV-infected pregnant women with information so they can make an informed decision about the use of Zidovudine (AZT). (f) Link women with substance abuse treatment, when available, and act as a liaison with Healthy Start coalitions, children's medical services, Ryan White-funded providers, and other services of the Department of Health. (g) Provide continued oversight to HIV-exposed newborns. (4) The types of entities the department is encouraged to contract with, provide grants to, or enter into other working relationships with may include, but are not limited to, faith-based organizations, academic institutions, religious organizations, nonprofit community centers, and other social-services-related entities.
§ 384.25	**Reporting required** (1) Each person who makes a diagnosis of or treats a person with a sexually transmissible disease and each laboratory that performs a test that concludes with a positive result for a sexually transmissible disease or a result indicative of human immunodeficiency virus (HIV) or acquired immune deficiency syndrome (AIDS) shall report such facts as may be required by the department by rule, within a time period as specified by rule of the department, but in no case to exceed 2 weeks. (2) The department shall adopt rules specifying the information required and the maximum time period for reporting a sexually transmissible

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	disease. In adopting such rules, the department shall consider the need for information, protections for the privacy and confidentiality of the patient, and the practical ability of persons and laboratories to report in a reasonable fashion. (3) To ensure the confidentiality of persons infected with the human immunodeficiency virus (HIV), reporting of HIV infection and AIDS must be conducted using using a system developed by the Centers for Disease Controla nd Prevention of the United States Public Health Service or an equivalent system. (a) The department shall adopt rules requiring each physician and laboratory to report any newborn or infant up to 18 months of age who has been exposed to HIV. Such rules may include the method and time period for reporting, which may not exceed 2 weeks, information to be included in the report, enforcement requirements, and followup activities by the department. (b) The reporting may not affect or relate to anonymous HIV testing programs conducted pursuant to s. 381.004(4). (c) After notification of the test subject, the department may, with the consent of the test subject, notify school superintendents of students and school personnel whose HIV tests are positive. (4) Each person who violates the provisions of this section or the rules adopted hereunder may be fined by the department up to $ 500 for each offense. The department shall report each violation of this section to the regulatory agency responsible for licensing each health care professional and each laboratory to which these provisions apply.
§ 384.287.	**Screening for sexually transmissible disease** (1) An officer as defined in s. 943.10(14); support personnel as defined in s. 943.10(11) who are employed by the Department of Law Enforcement, including, but not limited to, any crime scene analyst, forensic technologist, or crime lab analyst; firefighter as defined in s. 633.30; or ambulance driver, paramedic, or emergency medical technician as defined in s. 401.23, acting within the scope of employment, who comes into contact with a person in such a way that significant exposure, as defined in s. 381.004, has occurred may request that the person be screened for a sexually transmissible disease that can be transmitted through a significant exposure. (2) If the person will not voluntarily submit to screening, the officer, support personnel of the Department of Law Enforcement, firefighter, ambulance driver, paramedic, or emergency medical technician, or the employer of any of the employees described in subsection (1) acting on behalf of the employee, may seek a court order directing that the person who is the source of the significant exposure submit to screening. A

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	sworn statement by a physician licensed under chapter 458 or chapter 459 that a significant exposure has occurred and that, in the physician's medical judgment, the screening is medically necessary to determine the course of treatment for the employee, constitutes probable cause for the issuance of the order by the court. (3) In order to use the provisions of this section, the employee subjected to the significant exposure must also be screened for the same sexually transmissible diseases. (4) All screenings must be conducted by the department or the department's authorized representative or by medical personnel at a facility designated by the court. The cost of screening shall be borne by the employer. (5) Results of the screening are exempt from the requirements of s. 384.29 solely for the purpose of releasing the results to the person who is the source of the significant exposure, to the person subjected to the significant exposure, to the physicians of the persons screened, and to the employer, if necessary for filing a worker's compensation claim or any other disability claim based on the significant exposure. (6) A person who receives the results of a test pursuant to this section, which results disclose human immunodeficiency virus infection and are otherwise confidential pursuant to law, shall maintain the confidentiality of the information received and the identity of the person tested as required by s. 381.004. Violation of this subsection constitutes a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.
§ 384.29	**Confidentiality** (1) All information and records held by the department or its authorized representatives relating to known or suspected cases of sexually transmissible diseases are strictly confidential and exempt from the provisions of s. 119.07(1). Such information shall not be released or made public by the department or its authorized representatives, or by a court or parties to a lawsuit upon revelation by subpoena, except under the following circumstances: (a) When made with the consent of all persons to which the information applies; (b) When made for statistical purposes, and medical or epidemiologic information is summarized so that no person can be identified and no names are revealed; (c) When made to medical personnel, appropriate state agencies, public health agencies, or courts of appropriate jurisdiction, to enforce the provisions of this chapter or s. 775.0877 and related rules; (d) When made in a medical emergency, but only to the extent necessary to protect the health or life of a named party, or an injured officer, firefighter, paramedic, or emergency medical technician; or (e) When made to the proper authorities as required by chapter 39 or

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	chapter 415. (2) When disclosure is made pursuant to a subpoena, the court shall seal such information from further disclosure, except as deemed necessary by the court to reach a decision, unless otherwise agreed to by all parties. Except as provided in this section, such information that is disclosed pursuant to a subpoena is confidential and exempt from the provisions of s. 119.07(1). (3) No employee of the department or its authorized representatives shall be examined in a civil, criminal, special, or other proceeding as to the existence or contents of pertinent records of a person examined or treated for a sexually transmissible disease by the department or its authorized representatives, or of the existence or contents of such reports received from a private physician or private health facility, without the consent of the person examined and treated for such diseases, except in proceedings under ss. 384.27 and 384.28 or involving offenders pursuant to s. 775.0877.
§ 384.30	**Minors' consent to treatment** (1) The department and its authorized representatives, each physician licensed to practice medicine under the provisions of chapter 458 or chapter 459, each health care professional licensed under the provisions of part I of chapter 464 who is acting pursuant to the scope of his or her license, and each public or private hospital, clinic, or other health facility may examine and provide treatment for sexually transmissible diseases to any minor, if the physician, health care professional, or facility is qualified to provide such treatment. The consent of the parents or guardians of a minor is not a prerequisite for an examination or treatment. (2) The fact of consultation, examination, and treatment of a minor for a sexually transmissible disease is confidential and exempt from the provisions of s. 119.07(1) and shall not be divulged in any direct or indirect manner, such as sending a bill for services rendered to a parent or guardian, except as provided in s. 384.29.
§ 384.31	**Serological testing of pregnant women; duty of the attendant** Every person, including every physician licensed under chapter 458 or chapter 459 or midwife licensed under part I of chapter 464 or chapter 467, attending a pregnant woman for conditions relating to pregnancy during the period of gestation and delivery shall cause the woman to be tested for sexually transmissible diseases, including HIV, as specified by department rule. Testing shall be performed by a laboratory approved for such purposes under part I of chapter 483. The woman shall be informed of the tests that will be conducted and of her right to refuse testing. If a woman objects to testing, a written statement of objection, signed by the woman, shall be placed in the woman's medical record and no testing shall occur.

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§ 384.32	**Prisoners.--** (1) The department and its authorized representatives may, at its discretion, enter any state, county, or municipal detention facility to interview, examine, and treat any prisoner for a sexually transmissible disease. Any such state, county, or municipal detention facility shall cooperate with the department and its authorized representatives to provide such space as is necessary for the examination and treatment of all prisoners suffering from or suspected of having a sexually transmissible disease. (2) Nothing in this section shall be construed as relieving the Department of Corrections, counties, or municipalities of their primary responsibility for providing medical treatment for prisoners, including treatment for sexually transmissible diseases.
§ 401.2701.	**Emergency medical services training programs** (1) Any private or public institution in Florida desiring to conduct an approved program for the education of emergency medical technicians and paramedics shall: (a) Submit a completed application on a form provided by the department, which must include: 1. Evidence that the institution is in compliance with all applicable requirements of the Department of Education. 2. Evidence of an affiliation agreement with a hospital that has an emergency department staffed by at least one physician and one registered nurse. 3. Evidence of an affiliation agreement with a current Florida-licensed emergency medical services provider. Such agreement shall include, at a minimum, a commitment by the provider to conduct the field experience portion of the education program. 4. Documentation verifying faculty, including: a. A medical director who is a licensed physician meeting the applicable requirements for emergency medical services medical directors as outlined in this chapter and rules of the department. The medical director shall have the duty and responsibility of certifying that graduates have successfully completed all phases of the education program and are proficient in basic or advanced life support techniques, as applicable. b. A program director responsible for the operation, organization, periodic review, administration, development, and approval of the program. 5. Documentation verifying that the curriculum: a. Meets the course guides and instructor's lesson plans in the most recent Emergency Medical Technician-Basic National Standard Curricula for emergency medical technician programs and Emergency Medical Technician-Paramedic National Standard Curricula for paramedic

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	programs. b. Includes 2 hours of instruction on the trauma scorecard methodologies for assessment of adult trauma patients and pediatric trauma patients as specified by the department by rule. c. Includes 4 hours of instruction on HIV/AIDS training consistent with the requirements of chapter 381. 6. Evidence of sufficient medical and educational equipment to meet emergency medical services training program needs. (b) Receive a scheduled site visit from the department to the applicant's institution. Such site visit shall be conducted within 30 days after notification to the institution that the application was accepted. During the site visit, the department must determine the applicant's compliance with the following criteria: 1. Emergency medical technician programs must be a minimum of 110 hours, with at least 20 hours of supervised clinical supervision, including 10 hours in a hospital emergency department. 2. Paramedic programs must be available only to Florida-certified emergency medical technicians or an emergency medical technician applicant who will obtain Florida certification prior to completion of phase one of the paramedic program. Paramedic programs must be a minimum of 700 hours of didactic and skills practice components, with the skills laboratory student-to-instructor ratio not exceeding six to one. Paramedic programs must provide a field internship experience aboard an advanced life support permitted ambulance. (2) After completion of the site visit, the department shall prepare a report which shall be provided to the institution. Upon completion of the report, the application shall be deemed complete and the provisions of s. 120.60 shall apply. (3) If the program is approved, the department must issue the institution a 2-year certificate of approval as an emergency medical technician training program or a paramedic training program. If the application is denied, the department must notify the applicant of any areas of strength, areas needing improvement, and any suggested means of improvement of the program. A denial notification shall be provided to the applicant so as to allow the applicant 5 days prior to the expiration of the application processing time in s. 120.60 to advise the department in writing of its intent to submit a plan of correction. Such intent notification shall provide the time for application processing in s. 120.60. The plan of correction must be submitted to the department within 30 days of the notice. The department shall advise the applicant of its approval or denial of the plan of correction within 30 days of receipt. The denial of the plan of correction or denial of the application may be reviewed as provided in chapter 120. (4) Approved emergency medical services training programs must maintain records and reports that must be made available to the department, upon written request. Such records must include student

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	applications, records of attendance, records of participation in hospital clinic and field training, medical records, course objectives and outlines, class schedules, learning objectives, lesson plans, number of applicants, number of students accepted, admission requirements, description of qualifications, duties and responsibilities of faculty, and correspondence. (5) Each approved program must notify the department within 30 days of any change in the professional or employment status of faculty. Each approved program must require its students to pass a comprehensive final written and practical examination evaluating the skills described in the current United States Department of Transportation EMT-Basic or EMT-Paramedic, National Standard Curriculum. Each approved program must issue a certificate of completion to program graduates within 14 days of completion.
§ 455.2226	**Funeral directors and embalmers; instruction on HIV and AIDS** (1) The Board of Funeral Directors and Embalmers shall require each person licensed or certified under chapter 497 to complete a continuing educational course, approved by the board, on human immunodeficiency virus and acquired immune deficiency syndrome as part of biennial relicensure or recertification. The course shall consist of education on the modes of transmission, infection control procedures, clinical management, and prevention of human immunodeficiency virus and acquired immune deficiency syndrome. Such course shall include information on current Florida law on acquired immune deficiency syndrome and its impact on testing, confidentiality of test results, and treatment of patients. (2) Each such licensee or certificateholder shall submit confirmation of having completed said course, on a form as provided by the board, when submitting fees for each biennial renewal. (3) The board shall have the authority to approve additional equivalent courses that may be used to satisfy the requirements in subsection (1). Each licensing board that requires a licensee to complete an educational course pursuant to this section may count the hours required for completion of the course included in the total continuing educational requirements as required by law. (4) Any person holding two or more licenses subject to the provisions of this section shall be permitted to show proof of having taken one board-approved course on human immunodeficiency virus and acquired immune deficiency syndrome, for purposes of relicensure or recertification for additional licenses. (5) Failure to comply with the above requirements shall constitute grounds for disciplinary action under each respective licensing chapter and s. 455.227(1)(e). In addition to discipline by the board, the licensee shall be required to complete said course.

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	(6) The board shall require as a condition of granting a license under the chapters specified in subsection (1) that an applicant making initial application for licensure complete an educational course acceptable to the board on human immunodeficiency virus and acquired immune deficiency syndrome. An applicant who has not taken a course at the time of licensure shall, upon an affidavit showing good cause, be allowed 6 months to complete this requirement. (7) The board shall have the authority to adopt rules to carry out the provisions of this section. (8) The board shall report to the Legislature by March 1 of each year as to the implementation and compliance with the requirements of this section.
§ 456.032	**Hepatitis B or HIV carriers** (1) The department and each appropriate board within the Division of Medical Quality Assurance shall have the authority to establish procedures to handle, counsel, and provide other services to health care professionals within their respective boards who are infected with hepatitis B or the human immunodeficiency virus. (2) Any person licensed by the department and any other person employed by a health care facility who contracts a blood-borne infection shall have a rebuttable presumption that the illness was contracted in the course and scope of his or her employment, provided that the person, as soon as practicable, reports to the person's supervisor or the facility's risk manager any significant exposure, as that term is defined in s. 381.004(2)(c), to blood or body fluids. The employer may test the blood or body fluid to determine if it is infected with the same disease contracted by the employee. The employer may rebut the presumption by the preponderance of the evidence. Except as expressly provided in this subsection, there shall be no presumption that a blood-borne infection is a job-related injury or illness.
§ 456.033	**Requirement for instruction for certain licensees on HIV and AIDS** (1) Each person shall be required by the appropriate board to complete no later than upon first renewal a continuing educational course, approved by the board, on human immunodeficiency virus and acquired immune deficiency syndrome as part of biennial relicensure or recertification. The course shall consist of education on the modes of transmission, infection control procedures, clinical management, and prevention of human immunodeficiency virus and acquired immune deficiency syndrome. Such course shall include information on current Florida law on acquired immune deficiency syndrome and its impact on testing, confidentiality of test results, treatment of patients, and any protocols and procedures applicable to human immunodeficiency virus counseling and testing, reporting, the offering of HIV testing to pregnant women, and partner notification issues pursuant to ss. 381.004 and

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	384.25. (2) Each person shall submit confirmation of having completed the course required under subsection (1), on a form as provided by the board, when submitting fees for first renewal. (3) The board shall have the authority to approve additional equivalent courses that may be used to satisfy the requirements in subsection (1). Each licensing board that requires a licensee to complete an educational course pursuant to this section may count the hours required for completion of the course included in the total continuing educational requirements as required by law. (4) Any person holding two or more licenses subject to the provisions of this section shall be permitted to show proof of having taken one board-approved course on human immunodeficiency virus and acquired immune deficiency syndrome, for purposes of relicensure or recertification for additional licenses. (5) Failure to comply with the above requirements shall constitute grounds for disciplinary action under each respective licensing chapter and s. 456.072(1)(e). In addition to discipline by the board, the licensee shall be required to complete the course.

Title 32: Regulations of Professions and Occupations

FL Title 32 Code §	Code Language
§ 483.181	**Acceptance, collection, identification, and examination of specimens** (1) A clinical laboratory may examine human specimens at the request only of a licensed practitioner or other person authorized by law to use the findings of clinical laboratory examinations. An individual forwarding a sample of the individual's own blood to a clinical laboratory, when such blood sample has been taken pursuant to a home access HIV test kit approved by the United States Food and Drug Administration, shall be considered a person authorized to request and use a clinical laboratory test for human immunodeficiency virus, for the purposes of this part. (2) The results of a test must be reported directly to the licensed practitioner or other authorized person who requested it. The report must include the name and address of the clinical laboratory in which the test was actually performed, unless the test was performed in a hospital laboratory and the report becomes an integral part of the hospital record. (3) The results of clinical laboratory tests performed by a clinical laboratory complying with this part and performed before a patient's admission to a facility licensed under chapter 395 must be accepted in lieu of clinical laboratory tests required upon a patient's admission to the facility and in lieu of tests that may be ordered for patients of the facility, except that the facility may not be required to accept transfusion compatibility test results. The agency shall establish, by rule, standards for accepting laboratory test results to specify acceptable timeframes for such laboratory tests to assure that the timeframes do not adversely affect the accuracy of the test. (4) All specimens accepted by a clinical laboratory must be tested on the premises, except that specimens for infrequently performed tests may be forwarded for examination to another clinical laboratory approved under this part. This subsection does not prohibit referring specimens to a clinical laboratory excepted under s. 483.031. However, the clinical laboratory director of the referring clinical laboratory must assume complete responsibility. (5) A clinical laboratory licensed under this part must accept a human specimen submitted for examination by a practitioner licensed under chapter 458, chapter 459, chapter 460, chapter 461, chapter 462, or chapter 466, if the specimen and test are the type performed by the clinical laboratory. A clinical laboratory may only refuse a specimen based upon a history of nonpayment for services by the practitioner. A clinical laboratory shall not charge different prices for tests based upon the chapter under which a practitioner submitting a specimen for testing is licensed.

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§ 483.314	**Collection and transmittal of specimens** (1) A center shall forward the specimens collected by it to a clinical laboratory for such analyses as are authorized by the medical director of the center. Multiphasic health testing centers are authorized to conduct dipstick urinalysis and fecal occult blood tests only if such tests are conducted by licensed registered nurses, practical nurses, medical technicians, medical assistants, or clinical laboratory technicians trained to perform and interpret these tests. (2) Consumer multiphasic health testing centers shall report the results of an analysis directly to the medical director of the center that requested it and shall forward the results to the person from whom the specimen was collected within 5 days after the date the specimen was collected. When test results deviate significantly from established ranges, indicating the presence of a potential pathological condition, the contract multiphasic health testing center must forward the results to the person from whom the specimen was collected and the person's designated physician within 5 days after the date the specimen was collected. Complete results of contract multiphasic health testing must be forwarded to the medical director of the contracting employer within 30 days after the date the specimen was collected. (3) A multiphasic health testing center may not collect specimens from the human body where prudent medical practice requires that such specimens only be collected during the course of a physical examination by a physician. The agency, which may consult with the Board of Medicine and the Board of Osteopathic Medicine, shall develop rules to implement this subsection. (4) A center may not perform or hold itself out to the public as providing for testing for the human immunodeficiency virus (HIV) unless it complies with s. 381.004.

Title 33: Trade, Commerce, Investments and Solicitations

FL Title 33 Code §	Code Language
§ 499.005	**Prohibited acts** It is unlawful for a person to perform or cause the performance of any of the following acts in this state: (13) The sale, delivery, holding, or offering for sale of any self-testing kits designed to tell persons their status concerning human immunodeficiency virus or acquired immune deficiency syndrome or related disorders or conditions. This prohibition shall not apply to home access HIV test kits approved for distribution and sale by the United States Food and Drug Administration.
§ 497.367	**Instruction on HIV and AIDS, funeral directors** and embalmers (1) Each person licensed as a funeral director or embalmer under this chapter shall be required to complete an approved continuing educational course on human immunodeficiency virus and acquired immune deficiency syndrome as a prerequisite for every third biennial licensure renewal. The course shall consist of education on the modes of transmission, infection control procedures, clinical management, and prevention of human immunodeficiency virus and acquired immune deficiency syndrome. Such course shall include information on current Florida law on acquired immune deficiency syndrome and its impact on testing, confidentiality of test results, and treatment of patients. (2) Confirmation of completed continuing education concerning each funeral director or embalmer licensee shall be submitted according to procedures, forms, and methods as specified by rule of the licensing authority. (3) There may be approved by the licensing authority by rule or order additional equivalent courses that may be used to satisfy the requirements in subsection (1). There may be counted the hours required for completion of the course included in the total continuing educational requirements as required by law. (4) Any person holding two or more licenses subject to the provisions of this section shall only be required to take the course once every 2 years notwithstanding the number of licenses held by that person. (5) Failure to timely comply with the above requirements shall constitute grounds for disciplinary action against the licensee. (6) It shall be required as a condition of granting a license as a funeral director and embalmer under this chapter that an applicant making initial application for licensure complete an educational course approved by the licensing authority on human immunodeficiency virus and acquired immune deficiency syndrome. An applicant who has not taken a course at

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	the time of licensure shall, upon an affidavit showing good cause, be allowed 6 months to complete this requirement.

Title 37: Insurance

FL Title 37 Code §	Code Language
§ 627.429	**Medical tests for HIV infection and AIDS for insurance purposes** (1) *PURPOSE.* --The purpose of this section is to prohibit unfair practices in the underwriting of insurance with respect to exposure to the human immunodeficiency virus infection and related matters, and thereby to reduce the possibility that a person may suffer unfair discrimination when purchasing insurance. (2) *SCOPE.* (a) This section applies to all insurance policies, and the underwriting thereof, which are issued in this state or are issued outside this state pursuant to s. 627.5515 or s. 627.6515 covering residents of this state; to prepaid limited health organizations; and to multiple-employer welfare arrangements defined in s. 624.437. For the purposes of this section, "insurer" includes authorized multiple-employer welfare arrangements. (b) This section does not prohibit an insurer from contesting a policy or claim to the extent allowed by law. (3) *DEFINITIONS.* --As used in this section: (a) "AIDS" means acquired immune deficiency syndrome. (b) "ARC" means AIDS-related complex. (c) "HIV" means the human immunodeficiency virus identified as the causative agent of AIDS. (4) *USE OF MEDICAL TESTS FOR UNDERWRITING.* (a) With respect to the issuance of or the underwriting of a policy regarding exposure to the HIV infection and sickness or medical conditions derived from HIV infection, the insurer may use only medical tests that are reliable predictors of risk. A test which is recommended by the Centers for Disease Control and Prevention or by the federal Food and Drug Administration is reliable for the purposes of this section. A test which is rejected or not recommended by the Centers for Disease Control and Prevention or the federal Food and Drug Administration is not reliable for the purposes of this section. If a specific test recommended by the Centers for Disease Control and Prevention or the federal Food and Drug Administration indicates the existence or potential existence of exposure to the HIV infection or a sickness or medical condition related to the HIV infection, the insurer shall, before relying on a single test result to deny or limit coverage or to rate the coverage, follow the applicable Centers for Disease Control and Prevention or federal Food and Drug Administration recommended test protocol and shall use any applicable followup tests or series of tests recommended by the Centers for Disease Control and Prevention or federal Food and Drug Administration to confirm the indication. (b) Prior to testing, the insurer shall disclose its intent to test the person for the HIV infection or for a specific sickness or medical condition derived therefrom and shall obtain the person's written informed consent to administer the test. The written informed consent required by this

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	paragraph shall include a fair explanation of the test, including its purpose, potential uses, and limitations, and the meaning of its results and the right to confidential treatment of information. Use of a form approved by the office raises a conclusive presumption of informed consent. (c) An applicant shall be notified of a positive test result by a physician designated by the applicant or, in the absence of such designation, by the Department of Health. Notification must include all of the following: 1. Face-to-face posttest counseling on the meaning of the test results, the possible need for additional testing, and the need to eliminate behavior which might spread the disease to others. 2. The availability in the person's geographic area of any appropriate health care services, including mental health care, and appropriate social and support services. 3. The benefits of locating and counseling any individual by whom the infected individual may have been exposed to human immunodeficiency virus and any individual whom the infected individual may have exposed to the virus. 4. The availability, if any, of the services of public health authorities with respect to locating and counseling any individual described in subparagraph 3. (d) A medical test for exposure to the HIV infection or for a sickness or medical condition derived from such infection may be required of or given to a person only if the test is based on the person's current medical condition or medical history or if the test is triggered by threshold coverage amounts which apply to all persons within the risk class. Sexual orientation may not be used in the underwriting process or in the determination of which applicants shall be tested for exposure to the HIV infection. The marital status, living arrangements, occupation, gender, beneficiary designation, or zip code or other territorial classification of an applicant may not be used to establish the applicant's sexual orientation. (e) An insurer may inquire whether a person has been tested positive for exposure to the HIV infection or been diagnosed as having ARC or AIDS caused by the HIV infection or other sickness or condition derived from such infection. An insurer may not inquire whether the person has been tested for or has received a negative result from a specific test for exposure to the HIV infection or for a sickness or a medical condition derived from such infection. (f) Insurers shall maintain strict confidentiality regarding medical test results with respect to exposure to the HIV infection or a specific sickness or medical condition derived from such exposure. The insurer may not disclose information regarding specific test results outside of the insurance company or its employees, insurance affiliates, agents, or reinsurers, except to the person tested and to persons designated in writing by the person tested. The insurer may not furnish specific test results for exposure to the HIV infection to an insurer industry data bank if a review of the information would identify the individual and the specific test results. (g) A laboratory may be used by an insurer or insurance support organization for the processing of HIV-related tests only if it is certified by

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	the United States Department of Health and Human Services under the Clinical Laboratories Improvement Act of 1967, permitting testing of specimens obtained in interstate commerce, and only if the laboratory subjects itself to ongoing proficiency testing by the College of American Pathologists, the American Association of Bio Analysts, or an equivalent program approved by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services. (5) *RESTRICTIONS ON COVERAGE EXCLUSIONS AND LIMITATIONS.* (a) An insurer of a group policy may not exclude coverage of an eligible individual because of a positive test result for exposure to the HIV infection or a specific sickness or medical condition derived from such exposure, either as a condition for or subsequent to the issuance of the policy. This paragraph does not apply to individuals applying for coverage where individual underwriting is otherwise allowed by law. (b) Subject to the total benefits limits in a health insurance policy, no health insurance policy shall contain an exclusion or limitation with respect to coverage for exposure to the HIV infection or a specific sickness or medical condition derived from such infection, except as provided in a preexisting condition clause. This paragraph does not prohibit the issuance of accident-only or specified disease health policies. (c) Except for preexisting conditions specifically applying to a sickness or medical condition of the insured, benefits under a life insurance policy shall not be denied or limited based on the fact that the insured's death was caused, directly or indirectly, by exposure to the HIV infection or a specific sickness or medical condition derived from such infection. This paragraph does not prohibit the issuance of accidental death only or specified disease policies. (d) Any major medical or comprehensive accident and health policy for which individual underwriting is authorized by law may contain a provision excluding coverage for expenses related to AIDS or ARC if, in the opinion of a legally qualified physician, the insured, prior to the first anniversary of the insured's coverage under the policy, first exhibited objective manifestations of AIDS or ARC, as defined by the Centers for Disease Control and Prevention, which objective manifestations are attributable to no other cause or was diagnosed as having AIDS or ARC if all of the following apply: 1. The applicant for the policy is not required to submit to any medical test for HIV infection. 2. The policy provision: a. Is set forth separately from the other exclusion and limitation provisions of the policy. b. Has an appropriate caption or heading. c. Is disclosed and referenced in a conspicuous manner on the policy data page. d. Contains a statement that the exclusion will not apply to any person if the insurer does not assert the defense before the person has been insured under the policy for 2 years. 3. The insurer must notify the insured in writing of a determination that the insured would be subject to the effect of the exclusion within 90

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	days after the insurer first determines that an insured would be subject to the effect of the exclusion, even if there are no claims for AIDS or ARC. Failure to provide timely written notice under this subparagraph bars the insurer from using the exclusion. 4. Objective manifestations of AIDS or ARC first exhibited after the 12-month manifestation period must be covered the same as any other illness.
§ 641.3007	**HIV infection and AIDS for contract purposes** (1) *PURPOSE.* --The purpose of this section is to prohibit unfair practices in a health maintenance organization contract with respect to exposure to the human immunodeficiency virus infection and related matters, and thereby reduce the possibility that a health maintenance organization subscriber or applicant may suffer unfair discrimination when subscribing to or applying for the contractual services of a health maintenance organization. (2) *SCOPE.* --This section applies to all health maintenance contracts which are issued in this state or which are issued outside this state but cover residents of this state. This section shall not prohibit a health maintenance organization from contesting a contract or claim to the extent allowed by law. (3) *DEFINITIONS.* --As used in this section: (a) "AIDS" means acquired immune deficiency syndrome. (b) "ARC" means AIDS-related complex. (c) "HIV" means human immunodeficiency virus identified as the causative agent of AIDS. (4) *UTILIZATION OF MEDICAL TESTS.* (a) With respect to the issuance of or the underwriting of a health maintenance organization contract regarding exposure to the HIV infection and sickness or medical conditions derived from such infection, a health maintenance organization shall only utilize medical tests which are reliable predictors of risk. A test which is recommended by the Centers for Disease Control and Prevention or by the federal Food and Drug Administration is deemed to be reliable for the purposes of this section. A test which is rejected or not recommended by the Centers for Disease Control and Prevention or the federal Food and Drug Administration is a test which is deemed to be not reliable for the purposes of this section. If a specific Centers for Disease Control and Prevention or federal Food and Drug Administration recommended test indicates the existence or potential existence of exposure by the HIV infection or a sickness or medical condition related to the HIV infection, before relying on a single test result to deny or limit coverage or to rate the coverage, the health maintenance organization shall follow the applicable Centers for Disease Control and Prevention or federal Food and Drug Administration recommended test protocol and shall utilize any applicable Centers for Disease Control and Prevention or federal Food and Drug Administration

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	recommended followup tests or series of tests to confirm the indication. (b) Prior to testing, the health maintenance organization must disclose its intent to test the person for the HIV infection or for a specific sickness or medical condition derived therefrom and must obtain the person's written informed consent to administer the test. Written informed consent shall include a fair explanation of the test, including its purpose, potential uses, and limitations, and the meaning of its results and the right to confidential treatment of information. Use of a form approved by the office shall raise a conclusive presumption of informed consent. (c) An applicant shall be notified of a positive test result by a physician designated by the applicant or, in the absence of such designation, by the Department of Health. Such notification must include: 1. Face-to-face posttest counseling on the meaning of the test results; the possible need for additional testing; and the need to eliminate behavior which might spread the disease to others; 2. The availability in the geographic area of any appropriate health care services, including mental health care, and appropriate social and support services; 3. The benefits of locating and counseling any individual by whom the infected individual may have been exposed to human immunodeficiency virus and any individual whom the infected individual may have exposed to the virus; and 4. The availability, if any, of the services of public health authorities with respect to locating and counseling any individual described in subparagraph 3. (d) A medical test for exposure to the HIV infection or for a sickness or medical condition derived from such infection shall only be required of or given to a person if the test is required or given to all subscribers or applicants or if the decision to require the test is based on the person's medical history. Sexual orientation shall not be used in the underwriting process or in the determination of which subscribers or applicants for enrollment shall be tested for exposure to the HIV infection. Neither the marital status, the living arrangements, the occupation, the gender, the beneficiary designation, nor the zip code or other territorial classification of an applicant shall be used to establish the applicant's sexual orientation. (e) A health maintenance organization may inquire whether a person has been tested positive for exposure to the HIV infection or been diagnosed as having AIDS or ARC caused by the HIV infection or other sickness or medical condition derived from such infection. A health maintenance organization shall not inquire whether a person has been tested for or has received a negative result from a specific test for exposure to the HIV infection or for a sickness or medical condition derived from such infection. (f) A health maintenance organization shall maintain strict confidentiality regarding medical test results with respect to the HIV infection or a specific sickness or medical condition derived from such infection. Information regarding specific test results shall not be disclosed outside the health maintenance organization, its employees, its marketing representatives, or its insurance affiliates, except to the person tested

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	and to persons designated in writing by the person tested. Specific test results shall not be furnished to an insurance industry or health maintenance organization data bank if a review of the information would identify the individual and the specific test results. (g) No laboratory may be used by an insurer or insurance support organization for the processing of HIV-related tests unless it is certified by the United States Department of Health and Human Services under the Clinical Laboratories Improvement Act of 1967, permitting testing of specimens obtained in interstate commerce, and subjects itself to ongoing proficiency testing by the College of American Pathologists, the American Association of Bio Analysts, or an equivalent program approved by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services. (5) *RESTRICTIONS ON CONTRACT EXCLUSIONS AND LIMITATIONS.* (a) A health maintenance organization contract shall not exclude coverage of a member of a subscriber group because of a positive test result for exposure to the HIV infection or a specific sickness or medical condition derived from such infection, either as a condition for or subsequent to the issuance of the contract, provided that this prohibition shall not apply to persons applying for enrollment where individual underwriting is otherwise allowed by law. (b) No health maintenance organization contract shall exclude or limit coverage for exposure to the HIV infection or a specific sickness or medical condition derived from such infection, except as provided in a preexisting condition clause.

Title 44: Civil Rights

FL Title 44 Code §	Code Language
§ 760.50	**Discrimination on the basis of AIDS, AIDS-related complex, and HIV prohibited** (1) The Legislature finds and declares that persons infected or believed to be infected with human immunodeficiency virus have suffered and will continue to suffer irrational and scientifically unfounded discrimination. The Legislature further finds and declares that society itself is harmed by this discrimination, as otherwise able-bodied persons are deprived of the means of supporting themselves, providing for their own health care, housing themselves, and participating in the opportunities otherwise available to them in society. The Legislature further finds and declares that remedies are needed to correct these problems. (2) Any person with or perceived as having acquired immune deficiency syndrome, acquired immune deficiency syndrome related complex, or human immunodeficiency virus shall have every protection made available to handicapped persons. (3) (a) No person may require an individual to take a human immunodeficiency virus-related test as a condition of hiring, promotion, or continued employment unless the absence of human immunodeficiency virus infection is a bona fide occupational qualification for the job in question. (b) No person may fail or refuse to hire or discharge any individual, segregate or classify any individual in any way which would deprive or tend to deprive that individual of employment opportunities or adversely affect his or her status as an employee, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment on the basis of knowledge or belief that the individual has taken a human immunodeficiency virus test or the results or perceived results of such test unless the absence of human immunodeficiency virus infection is a bona fide occupational qualification of the job in question. (c) A person who asserts that a bona fide occupational qualification exists for human immunodeficiency virus-related testing shall have the burden of proving that: 1. The human immunodeficiency virus-related test is necessary to ascertain whether an employee is currently able to perform in a reasonable manner the duties of the particular job or whether an employee will present a significant risk of transmitting human immunodeficiency virus infection to other persons in the course of normal work activities; and 2. There exists no means of reasonable accommodation short of requiring that the individual be free of human immunodeficiency virus infection. (4) (a) A person may not discriminate against an otherwise qualified individual in housing, public accommodations, or governmental services

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	on the basis of the fact that such individual is, or is regarded as being, infected with human immunodeficiency virus. (b) A person or other entity receiving or benefiting from state financial assistance may not discriminate against an otherwise qualified individual on the basis of the fact that such individual is, or is regarded as being, infected with human immunodeficiency virus. (c) A person who asserts that an individual who is infected with human immunodeficiency virus is not otherwise qualified shall have the burden of proving that no reasonable accommodation can be made to prevent the likelihood that the individual will, under the circumstances involved, expose other individuals to a significant possibility of being infected with human immunodeficiency virus. (d) A person may not fail or refuse to hire or discharge any individual, segregate or classify any individual in any way which would deprive or tend to deprive that individual of employment opportunities or adversely affect his or her status as an employee, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment on the basis of the fact that the individual is a licensed health care professional or health care worker who treats or provides patient care to persons infected with human immunodeficiency virus. (5) Every employer who provides or administers health insurance benefits or life insurance benefits to its employees shall maintain the confidentiality of information relating to the medical condition or status of any person covered by such insurance benefits. Such information in the possession of a public employer is exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. An employer shall be liable in damages to any person damaged by its failure to implement such a procedure. (6) (a) Any person aggrieved by a violation of this section shall have a right of action in the circuit court and may recover for each violation: 1. Against any person who violates a provision of this section, liquidated damages of $ 1,000 or actual damages, whichever is greater. 2. Against any person who intentionally or recklessly violates a provision of this section, liquidated damages of $ 5,000 or actual damages, whichever is greater. 3. Reasonable attorney's fees. 4. Such other relief, including an injunction, as the court may deem appropriate. (b) Nothing in this section limits the right of the person aggrieved by a violation of this section to recover damages or other relief under any other applicable law.

Title 46: Crimes

FL Title 46 Code §	Code Language
§ 775.0877	**Criminal transmission of HIV; procedures; penalties** (1) In any case in which a person has been convicted of or has pled nolo contendere or guilty to, regardless of whether adjudication is withheld, any of the following offenses, or the attempt thereof, which offense or attempted offense involves the transmission of body fluids from one person to another: (a) Section 794.011, relating to sexual battery; (b) Section 826.04, relating to incest; (c) Section 800.04 relating to lewd or lascivious offenses committed upon or in the presend of persons less than 16 years of age; (d) Sections 784.011, 784.07(2)(a), and 784.08(2)(d), relating to assault; (e) Sections 784.021, 784.07(2)(c), and 784.08(2)(b), relating to aggravated assault; (f) Sections 784.03, 784.07(2)(b), and 784.08(2)(c), relating to battery; (g) Sections 784.045, 784.07(2)(d), and 784.08(2)(a), relating to aggravated battery; (h) Section 827.03(1), relating to child abuse; (i) Section 827.03(2), relating to aggravated child abuse; (j) Section 825.102(1), relating to abuse of an elderly person or disabled adult; (k) Section 825.102(2), relating to aggravated abuse of an elderly person or disabled adult; (l) Section 827.071, relating to sexual performance by person less than 18 years of age; (m) Sections 796.03, 796.07, and 796.08, relating to prostitution; or (n) Section 381.0041(11)(b), relating to donation of blood, plasma, organs, skin, or other human tissue, the court shall order the offender to undergo HIV testing, to be performed under the direction of the Department of Health in accordance with s. 381.004, unless the offender has undergone HIV testing voluntarily or pursuant to procedures established in s. 381.004(3)(h)6. or s. 951.27, or any other applicable law or rule providing for HIV testing of criminal offenders or inmates, subsequent to her or his arrest for an offense enumerated in paragraphs (a)-(n) for which she or he was convicted or to which she or he pled nolo contendere or guilty. The results of an HIV test performed on an offender pursuant to this subsection are not admissible in any criminal proceeding arising out of the alleged offense. (2) The results of the HIV test must be disclosed under the direction of the Department of Health, to the offender who has been convicted of or pled nolo contendere or guilty to an offense specified in subsection (1), the public health agency of the county in which the conviction occurred and, if different, the county of residence of the offender, and, upon request pursuant to s. 960.003, to the victim or the victim's legal guardian, or the parent or legal guardian of the victim if the victim is a minor.

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	(3) An offender who has undergone HIV testing pursuant to subsection (1), and to whom positive test results have been disclosed pursuant to subsection (2), who commits a second or subsequent offense enumerated in paragraphs (1)(a)-(n), commits criminal transmission of HIV, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A person may be convicted and sentenced separately for a violation of this subsection and for the underlying crime enumerated in paragraphs (1)(a)-(n). (4) An offender may challenge the positive results of an HIV test performed pursuant to this section and may introduce results of a backup test performed at her or his own expense. (5) Nothing in this section requires that an HIV infection have occurred in order for an offender to have committed criminal transmission of HIV. (6) For an alleged violation of any offense enumerated in paragraphs (1)(a)-(n) for which the consent of the victim may be raised as a defense in a criminal prosecution, it is an affirmative defense to a charge of violating this section that the person exposed knew that the offender was infected with HIV, knew that the action being taken could result in transmission of the HIV infection, and consented to the action voluntarily with that knowledge.
§ 796.08	**Screening for HIV and sexually transmissible diseases; providing penalties** (1) (a) For the purposes of this section, "sexually transmissible disease" means a bacterial, viral, fungal, or parasitic disease, determined by rule of the Department of Health to be sexually transmissible, a threat to the public health and welfare, and a disease for which a legitimate public interest is served by providing for regulation and treatment. (b) In considering which diseases are designated as sexually transmissible diseases, the Department of Health shall consider such diseases as chancroid, gonorrhea, granuloma inguinale, lymphogranuloma venereum, genital herpes simplex, chlamydia, nongonococcal urethritis (NGU), pelvic inflammatory disease (PID)/acute salpingitis, syphilis, and human immunodeficiency virus infection for designation and shall consider the recommendations and classifications of the Centers for Disease Control and Prevention and other nationally recognized authorities. Not all diseases that are sexually transmissible need be designated for purposes of this section. (2) A person arrested under s. 796.07 may request screening for a sexually transmissible disease under direction of the Department of Health and, if infected, shall submit to appropriate treatment and counseling. A person who requests screening for a sexually transmissible disease under this subsection must pay any costs associated with such screening. (3) A person convicted under s. 796.07 of prostitution or procuring another

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	to commit prostitution must undergo screening for a sexually transmissible disease, including, but not limited to, screening to detect exposure to the human immunodeficiency virus, under direction of the Department of Health. If the person is infected, he or she must submit to treatment and counseling prior to release from probation, community control, or incarceration. Notwithstanding the provisions of s. 384.29, the results of tests conducted pursuant to this subsection shall be made available by the Department of Health to the offender, medical personnel, appropriate state agencies, state attorneys, and courts of appropriate jurisdiction in need of such information in order to enforce the provisions of this chapter. (4) A person who commits prostitution or procures another for prostitution and who, prior to the commission of such crime, had tested positive for a sexually transmissible disease other than human immunodeficiency virus infection and knew or had been informed that he or she had tested positive for such sexually transmissible disease and could possibly communicate such disease to another person through sexual activity commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. A person may be convicted and sentenced separately for a violation of this subsection and for the underlying crime of prostitution or procurement of prostitution. (5) A person who: (a) Commits or offers to commit prostitution; or (b) Procures another for prostitution by engaging in sexual activity in a manner likely to transmit the human immunodeficiency virus, and who, prior to the commission of such crime, had tested positive for human immunodeficiency virus and knew or had been informed that he or she had tested positive for human immunodeficiency virus and could possibly communicate such disease to another person through sexual activity commits criminal transmission of HIV, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, s. 775.084. A person may be convicted and sentenced separately for a violation of this subsection and for the underlying crime of prostitution or procurement of prostitution.

Title 47: Criminal Procedure and Corrections

FL Title 47 Code §	Code Language
§ 945.355	**HIV testing of inmates prior to release** (1) As used in this section, the term "HIV test" means a test ordered to determine the presence of the antibody or antigen to human immunodeficiency virus or the presence of human immunodeficiency virus infection. (2) If an inmate's HIV status is unknown to the department, the department shall, pursuant to s. 381.004(3), perform an HIV test on the inmate not less than 60 days prior to the inmate's presumptive release date from prison by reason of parole, accumulation of gain-time credits, or expiration of sentence. An inmate who is known to the department to be HIV positive or who has been tested within the previous year and does not request retesting need not be tested under this section but is subject to subsections (4) and (5). However, an inmate who is released due to an emergency is exempt from the provisions of this section. (3) The department shall record the results of the HIV test in the inmate's medical record. (4) Pursuant to ss. 381.004(3) and 945.10, the department shall notify the Department of Health and the county health department where the inmate plans to reside regarding an inmate who is known to be HIV positive or has received an HIV positive test result under this section prior to the release of that inmate. (5) Prior to the release of an inmate who is known to be HIV positive or who has received a positive HIV test result under this section, the department shall provide special transitional assistance to the inmate, which must include: (a) Education on preventing the transmission of HIV to others and on the importance of receiving followup care and treatment. (b) A written, individualized discharge plan that includes referrals to and contacts with the county health department and local HIV primary care services in the area where the inmate plans to reside. (c) A 30-day supply of all HIV/AIDS-related medications that the inmate is taking prior to release under the protocols of the Department of Corrections and the treatment guidelines of the United States Department of Health and Human Services. (6) Notwithstanding any provision of the Florida Statutes providing for a waiver of sovereign immunity, neither the state, its agencies, subdivisions nor employees of the state, its agencies, or subdivisions shall be liable to any person for negligently causing death or personal injury arising out of complying with this section.
§ 947.1405	**Conditional release program**

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	(b) For a releasee whose crime was committed on or after October 1, 1997, in violation of chapter 794, s. 800.04, s. 827.071, or s. 847.0145, and who is subject to conditional release supervision, in addition to any other provision of this subsection, the commission shall impose the following additional conditions of conditional release supervision: 4. If there was sexual contact, a submission to, at the releasee's expense, an HIV test with the results to be released to the victim or the victim's parent or guardian.
§ 948.30	**Additional terms and conditions of probation or community control for certain sex offenses.** Conditions imposed pursuant to this section do not require oral pronouncement at the time of sentencing and shall be considered standard conditions of probation or community control for offenders specified in this section. (2) Effective for a probationer or community controllee whose crime was committed on or after October 1, 1997, and who is placed on community control or sex offender probation for a violation of chapter 794, s. 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145, in addition to any other provision of this section, the court must impose the following conditions of probation or community control: (d) If there was sexual contact, a submission to, at the probationer's or community controllee's expense, an HIV test with the results to be released to the victim or the victim's parent or guardian.
§ 951.27	**Blood tests of inmates** (1) Each county and each municipal detention facility shall have a written procedure developed, in consultation with the facility medical provider, establishing conditions under which an inmate will be tested for infectious disease, including human immunodeficiency virus pursuant to s. 775.0877, which procedure is consistent with guidelines of the Centers for Disease Control and Prevention and recommendations of the Correctional Medical Authority. It is not unlawful for the person receiving the test results to divulge the test results to the sheriff or chief correctional officer. (2) Except as otherwise provided in this subsection, serologic blood test results obtained pursuant to subsection (1) are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. However, such results may be provided to employees or officers of the sheriff or chief correctional officer who are responsible for the custody and care of the affected inmate and have a need to know such information, and as provided in ss. 775.0877 and 960.003. In addition, upon request of the victim or the victim's legal guardian, or the parent or legal guardian of the victim if the victim is a minor, the results of any HIV test performed on an inmate who has been arrested for any sexual offense involving oral, anal, or vaginal penetration by, or union with, the sexual organ of another, shall be disclosed to the victim or the victim's legal

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	guardian, or to the parent or legal guardian of the victim if the victim is a minor. In such cases, the county or municipal detention facility shall furnish the test results to the Department of Health, which is responsible for disclosing the results to public health agencies as provided in s. 775.0877 and to the victim or the victim's legal guardian, or the parent or legal guardian of the victim if the victim is a minor, as provided in s. 960.003(3). (3) The results of any serologic blood test on an inmate are a part of that inmate's permanent medical file. Upon transfer of the inmate to any other correctional facility, such file is also transferred, and all relevant authorized persons must be notified of positive HIV test results, as required in s. 775.0877.
§ 960.003	**Human immunodeficiency virus testing for persons charged with or alleged by petition for delinquency to have committed certain offenses; disclosure of results to victims** (1) *LEGISLATIVE INTENT.* --The Legislature finds that a victim of a criminal offense which involves the transmission of body fluids, or which involves certain sexual offenses in which the victim is a minor, disabled adult, or elderly person, is entitled to know at the earliest possible opportunity whether the person charged with or alleged by petition for delinquency to have committed the offense has tested positive for human immunodeficiency virus (HIV) infection. The Legislature finds that to deny victims access to HIV test results causes unnecessary mental anguish in persons who have already suffered trauma. The Legislature further finds that since medical science now recognizes that early diagnosis is a critical factor in the treatment of HIV infection, both the victim and the person charged with or alleged by petition for delinquency to have committed the offense benefit from prompt disclosure of HIV test results. (2) *TESTING OF PERSON CHARGED WITH OR ALLEGED BY PETITION FOR DELINQUENCY TO HAVE COMMITTED CERTAIN OFFENSES.* (a) In any case in which a person has been charged by information or indictment with or alleged by petition for delinquency to have committed any offense enumerated in s. 775.0877(1)(a)-(n), which involves the transmission of body fluids from one person to another, upon request of the victim or the victim's legal guardian, or of the parent or legal guardian of the victim if the victim is a minor, the court shall order such person to undergo HIV testing. (b) However, when a victim of any sexual offense enumerated in s. 775.0877(1)(a)-(n) is under the age of 18 at the time the offense was committed or when a victim of any sexual offense enumerated in s. 775.0877(1)(a)-(n) or s. 825.1025 is a disabled adult or elderly person as defined in s. 825.1025 regardless of whether the offense involves the transmission of bodily fluids from one person to another, then upon the request of the victim or the victim's legal guardian, or of the parent or legal guardian, the court shall order such person to undergo HIV testing. The testing shall be performed under the direction of the Department of Health in accordance with s. 381.004. The results of an HIV test performed on a

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	defendant or juvenile offender pursuant to this subsection shall not be admissible in any criminal or juvenile proceeding arising out of the alleged offense. (3) *DISCLOSURE OF RESULTS.* (a) The results of the test shall be disclosed no later than 2 weeks after the court receives such results, under the direction of the Department of Health, to the person charged with or alleged by petition for delinquency to have committed or to the person convicted of or adjudicated delinquent for any offense enumerated in s. 775.0877(1)(a)-(n), which involves the transmission of body fluids from one person to another, and, upon request, to the victim or the victim's legal guardian, or the parent or legal guardian of the victim if the victim is a minor, and to public health agencies pursuant to s. 775.0877. If the alleged offender is a juvenile, the test results shall also be disclosed to the parent or guardian. When the victim is a victim as described in paragraph (2)(b), the test results must also be disclosed no later than 2 weeks after the court receives such results, to the person charged with or alleged by petition for delinquency to have committed or to the person convicted of or adjudicated delinquent for any offense enumerated in s. 775.0877(1)(a)-(n), or s. 825.1025 regardless of whether the offense involves the transmission of bodily fluids from one person to another, and, upon request, to the victim or the victim's legal guardian, or the parent or legal guardian of the victim, and to public health agencies pursuant to s. 775.0877. Otherwise, HIV test results obtained pursuant to this section are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution and shall not be disclosed to any other person except as expressly authorized by law or court order. (b) At the time that the results are disclosed to the victim or the victim's legal guardian, or to the parent or legal guardian of a victim if the victim is a minor, the same immediate opportunity for face-to-face counseling which must be made available under s. 381.004 to those who undergo HIV testing shall also be afforded to the victim or the victim's legal guardian, or to the parent or legal guardian of the victim if the victim is a minor. (4) *POSTCONVICTION TESTING.* --If, for any reason, the testing requested under subsection (2) has not been undertaken, then upon request of the victim or the victim's legal guardian, or the parent or legal guardian of the victim if the victim is a minor, the court shall order the offender to undergo HIV testing following conviction or delinquency adjudication. The testing shall be performed under the direction of the Department of Health, and the results shall be disclosed in accordance with the provisions of subsection (3). (5) *EXCEPTIONS.* --The provisions of subsections (2) and (4) do not apply if: (a) The person charged with or convicted of or alleged by petition for delinquency to have committed or been adjudicated delinquent for an offense described in subsection (2) has undergone HIV testing voluntarily or pursuant to procedures established in s. 381.004(3)(h)6. or s. 951.27, or any other applicable law or rule providing for HIV testing of criminal

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	defendants, inmates, or juvenile offenders, subsequent to his or her arrest, conviction, or delinquency adjudication for the offense for which he or she was charged or alleged by petition for delinquency to have committed; and (b) The results of such HIV testing have been furnished to the victim or the victim's legal guardian, or the parent or legal guardian of the victim if the victim is a minor. (6) *TESTING DURING INCARCERATION, DETENTION, OR PLACEMENT; DISCLOSURE.* --In any case in which a person convicted of or adjudicated delinquent for an offense described in subsection (2) has not been tested under subsection (2), but undergoes HIV testing during his or her incarceration, detention, or placement, the results of the initial HIV testing shall be disclosed in accordance with the provisions of subsection (3). Except as otherwise requested by the victim or the victim's legal guardian, or the parent or guardian of the victim if the victim is a minor, if the initial test is conducted within the first year of the imprisonment, detention, or placement, the request for disclosure shall be considered a standing request for any subsequent HIV test results obtained within 1 year after the initial HIV test performed, and need not be repeated for each test administration. Where the inmate or juvenile offender has previously been tested pursuant to subsection (2) the request for disclosure under this subsection shall be considered a standing request for subsequent HIV results conducted within 1 year of the test performed pursuant to subsection (2). If the HIV testing is performed by an agency other than the Department of Health, that agency shall be responsible for forwarding the test results to the Department of Health for disclosure in accordance with the provisions of subsection (3). This subsection shall not be limited to results of HIV tests administered subsequent to June 27, 1990, but shall also apply to the results of all HIV tests performed on inmates convicted of or juvenile offenders adjudicated delinquent for sex offenses as described in subsection (2) during their incarceration, detention, or placement prior to June 27, 1990.

Title 48: K-20 Education Code

FL Title 48 Code §	Code Language
§ 1002.21	**Postsecondary student and parent rights** (1) STUDENT RECORDS.--Parents have rights regarding the student records of their children, and students 18 years of age and older have rights regarding their student records, including right of access, right of waiver of access, right to challenge and hearing, and right of privacy, in accordance with the provisions of ss. 1002.22, 1005.36, and 1006.52. (2) LEARNING DISABLED STUDENTS.--Impaired and learning disabled students may be eligible for reasonable substitution for admission, graduation, and upper-level division requirements of public postsecondary educational institutions, in accordance with the provisions of ss. 1007.264 and 1007.265. (3) EXPULSION, SUSPENSION, DISCIPLINE.--Public postsecondary education students may be expelled, suspended, or otherwise disciplined by the president of a public postsecondary educational institution after notice to the student of the charges and a hearing on the charges, in accordance with the provisions of s. 1006.62. (4) RELIGIOUS BELIEFS.--Public postsecondary educational institutions must provide reasonable accommodations for the religious practices and beliefs of individual students in regard to admissions, class attendance, and the scheduling of examinations and work assignments, in accordance with the provisions of s. 1006.53, and must provide and describe in the student handbook a grievance procedure for students to seek redress when they feel they have been unreasonably denied an educational benefit due to their religious beliefs or practices. (5) STUDENT HANDBOOKS.--Each state university and Florida College System institution shall provide its students with an up-to-date student handbook that includes student rights and responsibilities, appeals processes available to students, contact persons available to help students, student conduct code, and information regarding hiv and AIDS, in accordance with the provisions of s. 1006.50. (6) STUDENT OMBUDSMAN OFFICE.--Each state university and Florida College System institution shall maintain a student ombudsman office and established procedures for students to appeal to the office regarding decisions about the student's access to courses and credit granted toward the student's degree, in accordance with the provisions of s. 1006.51.
§ 1006.50	**Student handbooks** (1) Each community college and state university shall compile and update annually a student handbook that includes, but is not limited to, a

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	comprehensive calendar that emphasizes important dates and deadlines, student rights and responsibilities, appeals processes available to students, and a roster of contact persons within the administrative staff available to respond to student inquiries. (2) Each student handbook shall list the legal and institution-specific sanctions that will be imposed upon students who violate the law or institutional policies regarding controlled substances and alcoholic beverages. (3) Each student handbook shall provide information related to acquired immune deficiency syndrome (AIDS) education or identify sites from which AIDS education information may be obtained.
§ 1006.68	**HIV and AIDS policy** Each Florida College System institution and state university shall develop a comprehensive policy that addresses the provision of instruction, information, and activities regarding human immunodeficiency virus infection and acquired immune deficiency syndrome. Such instruction, information, or activities shall emphasize the known modes of transmission of human immunodeficiency virus infection and acquired immune deficiency syndrome, signs and symptoms, associated risk factors, appropriate behavior and attitude change, and means used to control the spread of human immunodeficiency virus infection and acquired immune deficiency syndrome.

Florida Administrative Code – Department 64: Department of Health

Dept. 64 FAC	Code Language
64D-2.002	**Definitions.** As used in this chapter, "HIV test," "HIV test result," "preliminary test," "Significant exposure," and "Test subject" have the same meaning as in Section. 381.004(2), F.S., and the following words and phrases shall have the following meanings: (1) "Blood" – Whole human blood or components of human blood, including plasma. (2) "Blood Bank" – Any facility licensed under Chapter 483, Part I, F.S., including plasma centers, where blood or plasma is procured, donated, processed, stored or distributed. (3) "Confirmatory test" – A corroborative or supplemental HIV test, such as a Western Blot, licensed by the United States Food and Drug Administration (FDA) to validate a positive preliminary HIV test; or other supplemental or corroborative tests authorized by the State AIDS Program in consultation with the Centers for Disease Control and Prevention (CDC), the Association of State and Territorial Public Health Laboratory Directors, or the FDA, e.g., the immunofluorescent assay (IFA). (4) "Health care facility" – A hospital, nursing home, clinic, blood bank, plasma center, sperm bank, clinical laboratory, intermediate care facility, ambulatory surgical center, public health facility licensed under Chapter 154, F.S., mental health facility licensed under Chapter 394, F.S., or drug treatment or rehabilitation facility licensed under Chapter 397, F.S., emergency center, walk-in emergency clinic, birthing center, or health maintenance organization. (5) "Health care provider" – Any licensed physician, dentist, podiatrist, naturopath, nurse, advanced registered nurse practitioner (ARNP), physician assistant, dental assistant, dental hygienist, paramedic, emergency medical technician, psychologist, mental health professional, lay midwife, any person licensed under the Division of Medical Quality Assurance at the DOH, an administrator, employee or agent of a health care facility or other person providing medical, nursing, psychological, or other health care services or medical or other students receiving training as health care professionals at a health care facility. (6) "Laboratory" – Any facility licensed under Chapter 483, F.S., where HIV tests are performed. This definition does not include blood banks or plasma centers. (7) "Medical personnel" – An authorized agent or employee of a health care facility, health care provider, health care professional, blood bank or plasma center; a licensed or certified health care professional; a medical or other student receiving training as a health care professional at a health care facility; a paramedic or emergency medical technician certified by the Department to perform life support procedures pursuant to the provisions of Section. 401.23, F.S. (8) "Reasonable attempt" – A documented effort to locate an individual, for example: contact by last known phone number, relative's phone number, agency contacts, or certified mail.

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64D-2.003	**Confidentiality** (1) Any person, including the department, and any county health department, contract provider, testing program authorized by the department, health care provider or health care facility shall comply with the confidentiality provisions of Section 381.004(3)(e), (f), F.S., and this rule in administering the HIV test, protecting the identity of the test subject, and managing records which contain laboratory reports of HIV test results or any report or notation of a laboratory report of an HIV test. (2) No person, including health care facilities and health care providers as defined in subsections 64D-2.002(4) and (5), F.A.C., shall disclose or be compelled to disclose the identity of a test subject or his or her HIV test results, except to the following persons: (a) The subject of the test. (b) Any person designated in a legally effective release executed by the test subject prior to or after the performance of the HIV test. The following releases are legally effective: 1. A specific release that states the test subject's HIV test results can be disclosed to a named third party, except that third party payors need not be specifically identified. 2. A general release that states the test subject's medical record can be disclosed to a named third party, except that third party payors need not be specifically identified, provided the general release is preceded by the test subject's express written authorization. a. The prior written authorization shall state that the test subject's HIV test results can be disclosed to third party payors, who need not be specifically identified, and to other persons to whom the test subject subsequently issues a general release of medical information. b. Health care providers and health care facilities shall not honor a general release without this express prior written authorization if the material to be released would disclose the identity of a test subject or his or her HIV test result. 3. A hospital can honor a general release without prior written authorization, provided the hospital first obtains the test subject's written informed consent in accordance with Rule 64D-2.004, F.A.C., and releases the information in accordance with Section 395.3025, F.S. The informed consent shall include a statement to the effect that the test subject's HIV test results can be released to anyone to whom the test subject gives written permission to see or to copy his or her medical record. (c) Any medical personnel who experience a significant exposure during the course of employment or in the performance of professional duties, or non-medical personnel who experience a significant exposure while providing emergency assistance. (d) An authorized agent or employee of a health care facility or health care provider if: 1. The health care facility or health care provider itself is authorized to know or obtain the identity of a test subject or his or her HIV test result; and

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	2. The agent or employee has a "need to know" as defined in subparagraph 64D-2.003(2)(d)3., F.A.C., and performs one of the following functions: a. Participates in or administers the business operations of a health care provider or health care facility; b. Provides or participates in providing patient care; or c. Handles or processes specimens of body fluids or tissues. 3. An agent or employee has a need to know the identity of a test subject or his or her HIV test result if: a. The agent or employee has a need to know the identity of a test subject or his or her HIV test result to discharge properly his or her duties in the ordinary course of participating in or administering the business operations of a health care facility or health care provider. Examples of these agents or employees are: (I) Financial staff who compile or review patient records as part of routine billing activities. (II) Transcribers who enter medical information into computers or records. (III) Personnel involved in utilization review, risk management or peer review activities in which patient records are normally shared among reviewers. (IV) Supervisors responsible for the activities described in sub-subparagraph 64D-2.003(2)(d)3.b., F.A.C. b. The agent or employee has a need to know the identity of a test subject or his or her HIV test results to discharge properly his or her duties in the ordinary course of providing patient care. Examples of these agents or employees include, but are not limited to: (I) Licensed professionals, such as physicians, nurses or social workers, who normally are permitted to review the medical record of a test subject. (II) Licensed professionals who regularly participate as part of a multi-disciplinary medical team responsible for the care of patients located on a particular ward or floor, but who can not themselves provide or determine diagnosis or treatment of a test subject. c. The agent or employee has a need to know the identity of a test subject or his or her HIV test results to learn or to teach properly in the ordinary course of an approved educational program in a medical teaching facility or a research program under Chapter 405, F.S. Examples of these agents or employees include, but are not limited to: (I) Students, interns, and residents involved in making rounds at a teaching hospital. (II) Researchers and their assistants engaged in research authorized under Chapter 405, F.S. (e) Health care providers involved in the care or treatment of a test subject and consulting between or among themselves or with health care facilities to determine diagnosis or treatment of a test subject. This is not an exception to Section 395.3025, F.S., which requires hospitals to obtain written authorization before furnishing patient records to anyone other than the patient. 1. A health care provider involved in the delivery of a child can note the mother's HIV test results on the child's medical record. 2. For the purpose of paragraph 64D-2.003(2)(e), F.A.C., health care

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	providers shall include licensed health care professionals employed by or associated with state, county or municipal detention facilities when such health care professionals are acting exclusively for the purpose of providing diagnosis or treatment of persons in the care, custody, or control of such facilities. (f) The department, in accordance with rules for reporting and controlling the spread of disease, as otherwise provided by state law. (g) A health facility or health care provider which procures, processes, distributes, or uses: 1. A human body part from a deceased person, with respect to medical information regarding the person; or 2. Semen provided prior to July 6, 1988, for the purpose of artificial insemination. (h) Health facility staff committees for the purposes of conducting program monitoring, program evaluation or service reviews. Health facility staff committees include medical review committees as defined in Section 766.101, F.S. (i) Authorized medical or epidemiological researchers who can not further disclose any identifying characteristics or information. (j) Those persons authorized under Section 796.08(3), F.S., to receive HIV test results of convicted prostitutes tested pursuant to Section 796.08(3), F.S. Authorized persons include: 1. Medical personnel which includes those involved in the diagnosis or treatment of the person tested. 2. Appropriate state agencies which include those diagnosing, treating or making payment or administrative determinations related to HIV testing. 3. Courts of appropriate jurisdiction in the case, including appellate courts, and any persons so ordered by the court, including probation officers if treatment and counseling are conditions of release from probation, community control, or incarceration. (k) Pursuant to Sections 960.003(2)-(5), F.S., and Section 775.0877(2), F.S., the victim of a criminal offense involving the transmission of body fluids from one person to another shall, upon request, obtain the HIV test results of the person charged with or convicted of the criminal offense. The test results shall be disclosed in accordance with Section 381.004(3)(c), F.S. The test results shall not be disclosed to any other person except as expressly authorized by law or court order. (l) In accordance with specific circumstances established in Section 455.674, F.S., a practitioner regulated through the Division of Medical Quality Assurance within the Department of Health can disclose the identity of an HIV positive patient to the patient's sex or needle-sharing partner. Any notification of a sex or needle-sharing partner pursuant to this section shall be done in accordance with the "Partner Notification Protocol for Practitioners", dated March 1999, incorporated by reference in this rule. This protocol can be obtained from the Department of Health, Bureau of HIV/AIDS, 4052 Bald Cypress Way, Bin A09, Tallahassee, Florida 32399-1715. (m) Employees of the department, child placing or child-caring agencies, or of family foster homes licensed pursuant to Section 409.175, F.S., who are directly involved in the placement, care, control, or custody of a test

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	subject and have a need to know such information pursuant to Rule 10M-6.120, F.A.C.; the adoptive parents of the test subject; or the adult custodian, adult relative or other person who is responsible for the child's welfare, if the test subject was not tested pursuant to Section 384.30, F.S., and if, after a reasonable attempt, the parent or legal guardian cannot be located and informed of the test result. The details of the reasonable attempt must be documented in the medical record of the child. (n) Employees of residential facilities or community-based care programs licensed under Chapter 393, F.S., for developmentally disabled persons if the employees are directly involved in the care, control, or custody of such test subject and have a need to know such information. (o) A person allowed access by a court order which is issued in compliance with Section 381.004(3)(e)9., F.S. (p) A person allowed access by order of a judge of compensation claims of the Division of Workers' Compensation of the Department of Labor and Employment Security. Such order shall not be issued by a judge of compensation claims unless the person seeking the test results has demonstrated a compelling need for the test results which cannot be accommodated by other means. (3) All patient records, client records or medical records containing HIV test results are recommended to be kept in the following manner: (a) The written informed consent form or documentation of informed consent and HIV test results shall be kept in a patient's medical record. The confidentiality requirements of this rule shall not prohibit the computerization of medical records including HIV test results when such records are kept in accordance with sound practices of record keeping. (b) When an HIV test is performed without informed consent, the test results shall be disclosed only as provided in this rule and shall be kept according to the confidentiality requirements of this rule. (c) No patient records shall be marked, coded or distinguished on the outside so as to identify HIV test results or that an HIV test was or was not performed. (d) The health care facility or residential facility shall establish a uniform procedure to maintain confidential medical records which ensures access only to persons authorized to review or receive the contents. (e) A subpoena for medical records containing HIV test results is not sufficient to release such records, except for HIV testing performed in hospitals as provided in Section 381.004(3)(g), F.S. (4) Pursuant to Section 381.004(3)(f), F.S., oral disclosure of HIV test results shall be accompanied by oral notice and followed by a written notice within 10 days. This written notice shall include the following statement: "This information has been disclosed to you from records whose confidentiality is protected by state law. State law prohibits you from making any further disclosure of such information without the specific written consent of the person to whom such information pertains, or as otherwise permitted by state law. A general authorization for the release of medical or other information is NOT sufficient for this purpose." This written statement shall not be required for disclosures made in accordance

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	with Sections 381.004(3)(e)3., and 4., F.S. (5) The anonymity of individuals tested for HIV in county health department anonymous test sites or other testing programs approved through the department registration process to conduct anonymous testing, shall be ensured as follows: (a) Names or other specified identifying information about test subjects shall not be collected. (b) A unique identification number shall be assigned to the test subject, and identically numbered labels shall be used to identify all records and blood specimens; (c) The identification number shall be given to the individual for the individual to secure test results and receive ancillary services at a later time; and (d) Fees shall not be charged for HIV anonymous testing if the test subject verbally declares an inability to pay in accordance with Section 402.33, F.S.
64D-2.004	**Testing Requirements** (1) Pursuant to Section 381.004(3)(a), F.S., informed consent shall be obtained prior to testing for HIV except in the limited situations outlined in Section 381.004(3)(h), F.S. Informed consent shall include an explanation that the information identifying the test subject and the results of the test are confidential and protected against further disclosure to the extent provided by law. Information shall also be included on the fact that persons who test positive will be reported to the local county health department, that anonymous testing is available and the locations of anonymous testing sites. (2) In addition to the information on confidentiality, reporting and anonymous testing listed above, an explanation of the following information constitutes sound and reasonable practice in providing information sufficient to secure informed consent: (a) An HIV test is a test to determine if an individual is infected with the virus which causes AIDS; (b) The potential uses and limitations of the test; (c) The procedures to be followed; and (d) HIV testing is voluntary and consent to be tested can be withdrawn at any time prior to testing. (3) Informed consent to perform a test for HIV need not be in writing, except in the situations listed below in subsection 64D-2.004(4), F.A.C., if there is documentation in the medical record that the test has been explained and consent has been obtained. (4) Informed consent to perform a test for HIV shall be in writing for the following: (a) From the potential donor or from the donor's legal representative prior to the first donation of blood, plasma, organs, skin, semen, or other

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	human tissue. The consent form must specify that the donor is consenting to repeated HIV testing of each of his donations for the subsequent year. The consent form must be signed annually prior to transfusion or other use; (b) Prior to testing for HIV for insurance purposes, in accordance with Section 627.429, F.S.; or (c) Prior to testing for HIV for contract purposes in a health maintenance organization, in accordance with Section 641.3007, F.S. (5) The following minors can be tested for HIV without parental consent provided the minor gives informed consent: (a) Any minor who requests examination, testing, consultation or treatment for a sexually transmissible disease, including HIV, in accordance with Section 384.30, F.S., and who demonstrates sufficient knowledge and maturity to make an informed judgment. (b) Any minor who has reached the age of 17 years who gave consent to the donation of his or her blood, in compliance with Section 743.06, F.S. (c) Any married minor or unwed pregnant minor, in accordance with Section 743.065, F.S. (6) Any health care provider attending a pregnant woman for conditions related to her pregnancy shall counsel the woman on the potential benefits, potential risks and limitations of treatment to reduce the risk of transmission from infected women to their babies and offer HIV testing in accordance with Section 384.31, F.S. (7) Pursuant to Section 381.004(8), F.S., the Department of Health developed the Model Protocol for HIV Counseling and Testing for County Health Departments and Registered Testing Programs, dated March 29, 1999, and the Model Protocol for HIV Counseling and Testing Conducted Outside County Health Departments and Registered Testing Programs, dated March 29, 1999, consistent with the provisions of this section and incorporates these documents by reference in this rule. The model protocols can be obtained from the Department of Health, Bureau of HIV/AIDS, 2020 Capital Circle, S. E., Bin A09, Tallahassee, Florida 32399-1715. (8) Persons ordering an HIV test must ensure that all reasonable efforts are made to notify the test subject of the test result and relate certain information to the test subject in accordance with Section 381.004(3)(c), F.S., and the applicable Model Protocol for HIV Counseling and Testing specified in subsection 64D-2.004(7), F.A.C. If the test subject was tested in a facility, such as a jail or hospital emergency department, and was released before being notified of a positive HIV test result, the facility may inform the county health department to notify the test subject. Blood banks and persons who collect blood, organs, skin, semen, or other tissue shall comply with Rule 64D-2.005, F.A.C., and Sections 381.0041(5), (6), F.S.
64D-2.005	**Blood and Human Tissue Donations**

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	(1) The HIV test shall be performed by a laboratory licensed under Chapter 483, F.S., in compliance with the standards of the Clinical Laboratory Improvement Act of 1967 (CLIA) [42 U.S.C. 263a (1988)], or be licensed under standards equivalent to the minimum requirements of Chapter 483, F.S., in the state in which it is located, and must successfully participate in an HIV proficiency testing program, provided the clinical laboratory is qualified to perform the test. (2) No blood, plasma, organ, skin, semen, or other human tissue from donors whose blood is reactive to HIV shall be released for transfusion or transplantation to another. Such blood shall be retested using a confirmatory test prior to release of test results outside the facility. Test results may be released immediately to the physician of an organ donation recipient, prior to confirmatory testing. (3) The recipient's physician shall be notified of HIV confirmatory test results within 24 hours by the medical director of the facility in the event that blood, plasma, organ, skin, semen, or other tissue is transferred and is subsequently reported positive on confirmatory test. The donor or his legal representative shall also be notified in accordance with the Model Protocol for Counseling Donors. (4) The Model Protocol for Counseling Donors, developed pursuant to Section 381.0041(8), F.S., provides a list of the information that shall be included in the letter of notification to donors who test positive to HIV based on confirmatory testing. The Model Protocol for Counseling Donors, effective 7-12-89, is available through the – Department of Health, Bureau of HIV/AIDS, 4052 Bald Cypress Way, Bin A09, Tallahassee, Florida 32399-1715. (5) Any blood, plasma, organ, skin, semen, or other human tissue from a donor whose blood test for HIV or hepatitis is repeatedly reactive, or originating from an individual diagnosed with AIDS or ARC, shall not be shipped or used for transfer to another, except as provided by Title 42 Part 72, Title 49 Part 173, and Title 39 Part III Code of Federal Regulations. Such human tissue shall be destroyed, treated, or disposed, in accordance with Section 381.6105(4), F.S., and with the rules promulgated to implement Chapter 88-130, Laws of Florida, relating to biohazardous waste. (6) The blood of any human tissue donor testing negative for HIV or hepatitis at the time of donation shall not require retesting by the collecting facility when such tissue is collected for transplantation, implantation, transfusion, grafting, or any other method of transfer to another human.
64D-2.006	**Registration of HIV Testing Programs** (1)(a) All county health departments and persons who conduct or make

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	any personal, telephone or mail contact or other communication to a person, or make any announcement, solicitation, display, or advertisement to inform the general public that they are conducting a testing program as defined in (b) below, must first register with the Department of Health, Bureau of HIV/AIDS and must reregister annually. Initial registration and subsequent reregistration shall be approved by the department based upon compliance with Section 381.004(5), F.S. (b) For the purpose of this rule, an HIV testing program is a program which provides HIV testing services with the sole purpose of identifying HIV infection. This definition does not apply to any health care provider who performs or provides HIV testing services which are incidental to the primary diagnosis or care of a patient if the health care provider does not announce, solicit, display or advertise that they are conducting a testing program. (c) When the testing program satisfactorily completes the registration or reregistration requirements, the department shall mail a certificate of registration to the program. (2) An application for initial registration to conduct an HIV testing program shall be made to the department on DH Form 1781, 11/98, Application for Registration and Reregistration of HIV Testing Programs, incorporated by reference in this rule. The application can be obtained from the Department of Health, Bureau of HIV/AIDS, 4052 Bald Cypress Way, S. E., Bin A09, Tallahassee, Florida 32399-1715. A completed application shall be mailed to the Department of Health, Bureau of HIV/AIDS, Attention: Counseling and Testing Program Registration at the same address and shall be accompanied by the $100.00 initial registration fee. No fee is required for reregistration. (3) The initial registration fee shall be made payable to the department and will be deposited in the Department of Health Deputy Secretary for Health Grants and Donations Trust Fund. (4) Persons or facilities receiving funding pursuant to Section 381.004(4), F.S., shall be exempt from payment of the initial registration fee. (5) Effective October 1, 1998, HIV testing programs must reregister with the department annually. The application form for reregistration, DH Form 1781, 11/98, will be mailed by the Department of Health, Bureau of HIV/AIDS to the registered testing program 60 days prior to the program's reregistration date. Reregistration dates have been established as follows: (a) Testing programs registered with the department prior to October 1, 1998, will be notified in writing of their reregistration date by January 31, 1999. (b) Testing programs who register with the department on or after October 1, 1998, will be sent a certificate of registration with a designated reregistration date. (6) Pursuant to this section, if the application for reregistration is not received by the reregistration date, the certification is expired and the

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	program is not authorized to continue operating. (7) Each certificate of registration shall be valid only for the person or facility to which it was issued. (8) The certificate of registration shall not be subject to sale, assignment or other transfer. (9) The department shall be notified in writing no later than 15 days upon change of ownership or classification, suspension, revocation, or voluntary cessation of operation and the certificate of registration shall be returned immediately to the department. (10) The department shall deny, suspend, or revoke the registration of a person or agency which: (a) fails to comply with Section 381.004(5), F.S., or the rules in implementation thereof; or (b) causes to happen an intentional or negligent act which physically or materially affects the health, safety, or welfare of the person receiving services. (11) Pursuant to Section 381.004(5)(a), F.S., the program shall be directed by a person with a minimum of 15 contact hours of experience in counseling persons with human immunodeficiency virus. Examples of counseling include: informing a test subject of an HIV positive test result; providing case management services to HIV-infected persons; facilitating a support group for HIV-infected persons; and providing medical care. (12) Each person providing post-test counseling to a patient with a positive test result shall have received specialized training which shall be equivalent to the Department of Health specialized training in providing post-test counseling to HIV-positive clients. Specialized training must include information on the following: (a) Confidentiality, the meaning of a positive test result and the importance of not donating blood, blood products, tissues, or perm; (b) Early intervention, referrals and linkages to care/services; (c) Prevention of secondary HIV transmission; (d) Partner counseling and referral services; (e) HIV infection reporting; and (f) Documentation of test results.
64D-3.001	**Definitions.** When used in Chapter 64D-3, F.A.C., the following terms shall mean: (1) "Carrier". (a) A person who harbors pathogenic organisms of a communicable disease but who does not show clinical evidence of the disease and has not shown any such evidence for the ninety-day period immediately prior to the discovery of the pathogenic organisms; or (b) A person to whom evidence points as the source of one (1) or more

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	cases of any communicable disease but who refuses to submit clinical specimens to the county health department or Department for examination; or (c) A person who, in the judgment of the county health department director or administrator or the designee, is suspected to be a carrier and who refuses to submit to examination when ordered to do so for good cause shown by county health department director or administrator; or (d) A person reported to the county health department or the State Health Office to be a carrier by the health authorities of any municipality, county, or state in the United States, of any foreign nation or of any international organization of which the United States is a member, or (e) An animal which, in the judgement of the county health department director or administrator or his designated representative, is suspected to harbor pathogenic organisms of a communicable disease without presentation of clinical evidence of disease. (2) "Case" – An instance of a notifiable disease or condition in a person or animal. (3) "Communicable Disease" – An illness due to a specific infectious agent or its toxic products which arises through transmission of that agent or its products from a reservoir to a susceptible host either directly as from an infected person or animal or indirectly, through an intermediate plant or animal host, vector or the inanimate environment. (4) "Contact" – A person or animal that has been in such association with an infected person or animal or a contaminated environment as to have had opportunity to acquire the infection. (5) "Designated Representative" – The person officially named by the local county health department director or administrator or the State Health Officer to represent and to carry out the functions of the county health department or the State Health Office, respectively, in the absence of the county health department director or administrator or State Health Officer. (10) "Health Authorities" – Any local county health department director or administrator or the State Health Officer or their designated representatives; any chief health official of any municipality, county, or state in the United States, of any foreign nation or of any international organization of which the United States is a member. (11) "State Health Office" – The Central State Health Office within the Department of Health, State of Florida, responsible for the planning and development of all health programming, as established in Section 20.19(3)(c)2.c., F.S. (13) "Notifiable Disease" – A communicable disease or condition of public health significance required to be reported in accordance with these rules. (15) "School" – Any facility, public or non-public, operating under Florida Statutes as a school. (16) "Sensitive Situation" – See Rule 64D-3.014, F.A.C. (17) "Source of Infection" – The person, animal, object or substance

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	from which an infectious agent passes directly to the host. (18) "Suspect" – A person or animal whose medical history and symptoms suggest the imminent development of a notifiable or other communicable disease or condition, or a person or animal with disease not yet diagnosed.
64D-3.002	**Notifiable Diseases or Conditions to Be Reported, Human.** (1) The following notifiable diseases or conditions are declared as dangerous to the public's health or of public health significance. (a) Acquired Immune Deficiency Syndrome (AIDS). (ii) Human Immunodeficiency Virus (HIV). (2) The occurrence of the diseases listed in subsection 64D-3.002(1), F.A.C., or the suspected occurrence with the exception of cancer, congenital anomalies, and HIV infection, including persons who at the time of death were so affected, shall be reported by licensed practitioners as defined in Section 381.0031, F.S., to the local county health department director or administrator or the designee in the county of the patient's residence. Such reports shall be made within 72 hours of recognition by telephone, or other electronic means, or in writing, except for certain specified diseases as indicated by a (T), which shall be reported immediately by telephone. Telephone reports shall be followed within 72 hours by a subsequent written report. Exceptions to the reporting time frames required, as defined by this rule, are provided for syphilis, as indicated in subsection 64D-3.016(3), F.A.C.; HIV and AIDS, as indicated in paragraph 64D-3.016(1)(c) F.A.C.; and congenital anomalies, as indicated in subsection 64D-3.027(4), F.A.C. Cancer cases treated or diagnosed by licensed practitioners as defined in Section 381.0031, F.S., in medical facilities licensed under Chapter 395, F.S., and in each freestanding radiation therapy center as defined in Section 408.07, F.S., shall be reported to the Florida Cancer Data System as required by Section 385.202, F.S., and by Rule 64D-3.006, F.A.C.
64D-3.003	**Notification by Laboratories.** (1) Each laboratory director or designee in charge of a laboratory shall report, or cause to be reported evidence suggestive of or diagnostic of diseases or conditions listed in subsection 64D-3.002(1), F.A.C., from any specimen derived from a human body, or from an animal in the case of rabies or plague testing, to the county health department director or administrator or the State Health Officer or to either of their designated representatives. Such reports shall be made within 72 hours of recognition by telephone, or other electronic means, or in writing, except for certain specified diseases as indicated by a (T), which shall be reported immediately by telephone and followed by a written report. Exceptions to laboratory reporting as defined by this rule are provided for sexually transmitted diseases including AIDS, as indicated in Rule 64D-3.017, F.A.C.

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	(4) To allow follow-up of laboratory findings by the local county health department director/administrator or their designee, all specimens submitted for laboratory tests or examinations related to a disease or condition listed in subsection 64D-3.002(1), F.A.C., shall be accompanied by certain identifying information. In addition to the name and date of birth of the person from whom the specimen was obtained; the name, address and telephone number of the processing clinical laboratory; and the diagnostic test(s) performed, specimen type and result, the following information shall be provided: (a) Address, telephone number, race, sex, and ethnicity of the person from whom the specimen was obtained or, if this is not available, (b) Name, address and telephone number of the submitting physician, health care provider or other authorized person who submitted the specimen. (5) The practitioner who first authorizes, orders, requests or submits a specimen shall be responsible for obtaining and providing the information required in (4) above at the time the specimen is sent to or received by the laboratory. (6) Notification of test results shall be submitted by telephone, or other electronic means, or in writing on a form furnished by the laboratory. Reports shall be made within 72 hours of a test result. Any preliminary telephone communication must be followed up by a written report. (7) If the laboratory that makes the positive finding received the specimen from another laboratory, the laboratory making the positive finding shall be responsible for reporting such results as defined in subsection 64D-3.003(1), F.A.C.
64D-3.004	**Notifiable Disease Case Report Content.** (1) All notifiable disease case reports required by Rules 64D-3.002 and 64D-3.003, F.A.C., shall contain the diagnosis, name, address, age, sex, social security number, race and ethnicity if known, and date of onset of each case. (2) Information contained in such a report and in related investigatory notes is confidential as provided in Section 381.0031(4), F.S., and will only be released as determined as necessary by the State Health Officer or designee for the protection of the public's health due to the highly infectious nature of the disease, the potential for further outbreaks, and/or the inability to identify or locate specific persons in contact with the cases.
64D-3.016	**Reporting Requirements for Practitioners for Sexually Transmissible Diseases (STDs), Including HIV and AIDS.** (1) Each practitioner licensed under Chapters 458, 459 and 464, F.S., who makes a diagnosis of or treats a sexually transmissible disease, as defined in Rule 64D-3.015, F.A.C., shall report such information to the local county health department as follows:

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	(a) Except for the special reporting requirements for AIDS, HIV infection and early syphilis listed in paragraphs 64D-3.016(1)(c) and (d), F.A.C., herpes simplex virus and human papillomavirus infections listed in paragraph 64D-3.016(1)(e) and (f), F.A.C., and for hepatitis A and B as indicated in subsection 64D-3.002(2), Rules 64D-3.004 and 64D-3.006, F.A.C., all reports shall be submitted within three (3) working days from diagnosis. (b) Except for AIDS and HIV, as indicated in paragraph 64D-3.016(1)(c), F.A.C., and hepatitis A and B as indicated in subsection 64D-3.002(2), F.A.C., all reports of sexually transmissible diseases shall be completed and submitted on the Florida Confidential Report of Sexually Transmitted Diseases, DH 720, 8-02. The form, incorporated by reference in this rule, will be furnished by the local county health department. (c) All cases of AIDS which meet the Centers for Disease Control and Prevention case definition of AIDS and all positive tests to diagnose HIV infection obtained from specimens collected on or after the effective date of this rule shall be reported. Examples of tests to diagnose HIV infection and antibody-based test systems such as repeat ELISA positives followed by a confirmatory test, and antigen tests such as p24 antigen or polymerase chain reaction (PCR) when these are used for confirmatory purposes. Indeterminate test results and unconfirmed positive antibody tests are not reportable. Reporting shall be as follows: 1. AIDS cases and HIV infection shall be reported on the Adult or Pediatric HIV/AIDS Confidential Case Report form, CDC 50.42A Rev. 1-00 or CDC 50.42B Rev. 9-96, respectively, which are incorporated by reference in this rule. The forms shall be furnished by the Department of Health, Bureau of HIV/AIDS, 4052 Bald Cypress Way, Bin A-09, Tallahassee, Florida 32399-1715, or by the local county health department. 2. Reports must be submitted within two (2) weeks of the diagnosis. Reports shall be submitted to the local county health department. (d) Reports shall contain the following information: 1. Patient's Name. 2. Patient's Address including City and State. 3. Patient's contact telecommunication number, i.e., hard-line telephone, cellular phone, beeper, etc. (if available). 4. Date of Birth. 5. Sex. 6. Race and/or Ethnicity (if available). 7. Social Security Number (if available). 8. Diagnosis. 9. Treatment. 10. Provider's Name. 11. Provider's Address including City and State. In lieu of an independently prepared report, the provider may elect to use the Florida Confidential Report of Sexually Transmitted Diseases, DH 720 form.

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	(2) Any report of a sexually transmissible disease shall be submitted in a sealed envelope marked "Confidential."
64D-3.029	**Diseases or Conditions to be Reported.** (1) Diseases or conditions listed in subsection (3) below are of public health significance identified by the Department as of the date of these rules which must be reported by the practitioner, hospital, laboratory, or other individuals via telephone (with subsequent written report within 72 hours, see Rules 64D-3.030-.033, F.A.C.), facsimile, electronic data transfer, or other confidential means of communication to the County Health Department having jurisdiction for the area in which the office of the reporting practitioner, hospital, laboratory or patient's residence is located consistent with the specific section and time frames in subsection (3) below relevant to the practitioners, hospitals and laboratories, respectively. Reporters are not prohibited from reporting diseases and/or conditions not listed by rule. (2) Definitions to be used with subsection (3) below: (a) *"Notifiable Diseases or Conditions"* – The definitions of "case" and "suspected case" for reportable diseases or conditions are set forth in "Surveillance Case Definitions for Select Reportable Diseases in Florida," incorporated by reference, available online at: www.doh.state.fl.us/disease_ctrl/epi/topics/surv.htm. For any disease or condition for which Florida surveillance case definitions do not exist, the CDC case definitions set forth in Nationally Notifiable Infectious Diseases, Definition of Terms Used in Case Classification, incorporated by reference, available online at: www.cdc.gov/epo/dphsi/case def/definition_of_terms.htm should be used. Also see the footnotes to subsection (3). (b) *"Suspect Immediately"* – A notifiable condition of urgent public health importance. Report without delay upon the occurrence of any of the following: Initial suspicion, receipt of a specimen with an accompanying request for an indicative or confirmatory test, findings indicative thereof, or suspected diagnosis. Reports that cannot timely be made during the County Health Department business day shall be made to the County Health Department after-hours duty official. If unable to do so, the reporter shall contact the Florida Department of Health after-hours duty official at (850) 245-4401. (c) *"Immediately"* – A notifiable condition of urgent public health importance. Report without delay upon the occurrence of any of the following: An indicative or confirmatory test, findings indicative thereof, or diagnosis. Reports that cannot timely be made during the County Health Department business day shall be made to the County Health Department after-hours duty official. If unable to do so, the reporter shall contact the Florida Department of Health after-hours duty official at (850) 245-4401. (d) *"Next Business Day"* – Report before the closure of the County Health Department's next business day following suspicion or diagnosis. (e) *"Other"* – Report consistent with the instruction in and footnotes to subsection (3) below.

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(3) "*Table of Notifiable Diseases or Conditions to Be Reported*".

Practitioner Reporting					Laboratory Reporting					
Notifiable Diseases or Conditions	Timeframes				Evidence of current or recent infection with etiological agents	Submission of specimens for confirmation*1	Timeframes			
	Immediately	Immediately	Next Business Day	Other			Immediately	Immediately	Next Business Day	Other
Acquired Immune Deficiency Syndrome (AIDS)				2 Weeks	Not Applicable					
CD-4	Not Applicable				CD-4 absolute count and percentage of total lymphocytes*3					3 days
Human immunodeficiency virus (HIV)				2 Weeks	Repeatedly reactive enzyme immunoassay, followed by a positive confirmatory tests, (e.g. Western Blot, IFA): Positive result on any HIV virologic test (e.g. p24 AG, Nucleic Acid Test (NAT/NAAT) or viral culture). All viral load (detectable and undetectable) test results.*11					3 days
Human immunodeficiency virus (HIV) Exposed Newborn – infant < 18 months of age born to a HIV infected woman			X		Not Applicable					

*1 – Submission of isolates or specimens for confirmation:

a. Each laboratory that obtains a human isolate or a specimen from a patient shall send specimens (such as isolates, serums, slides or diagnostic preparations) to the Florida Department of Health, Bureau of Laboratories. Contact 1(866)352-5227 for the address of your regional laboratory, which will maintain a record indicating the date that these specimens were submitted to the laboratory.

b. Persons submitting specimens for reportable laboratory tests to the Florida Department of Health Laboratories, pursuant to subsection 64D-3.003(4), F.A.C., are required to supply the laboratories with sufficient information to comply with the provisions of this section.

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	*3 – All CD4s, with or without confirmed HIV infection. *11 – Special requirements for STARHS (Serologic Testing Algorithm for Recent HIV Seroconversion): a. Each laboratory that reports a confirmed positive HIV test in persons 13 years of age and older must also report a serologic testing algorithm for recent HIV seroconversion (STARHS) test result. b. In lieu of producing this test result, each laboratory that reports a confirmed positive HIV test must submit a sample for additional testing using STARHS (Serologic Testing Algorithm for Recent HIV Seroconversion). The laboratory is permitted to send the remaining blood specimen or an aliquot of at least 0.5 ml to the Florida Department of Health, Bureau of Laboratories, 1217 Pearle Street, Jacksonville, Florida 32202-3926. c. Laboratories electing to send a blood specimen will contact the Florida Department of Health, Bureau of Laboratories at (904) 791-1500 to receive specimen maintenance and shipping instructions. d. Nationally based laboratories with an existing contract to ship specimens directly to a STARHS laboratory designated by the National Centers for Disease Control and Prevention will not be required to send a specimen to the Florida Department of Health Laboratory.
64D-3.030	**Notification by Practitioners.** (1) Each practitioner licensed under Chapters 458, 459, 460, 462, 464, 467 and 474, F.S., and medical examiner appointed pursuant to Chapter 406, F.S., who diagnoses, treats or suspects a case, or who suspects an occurrence of a disease or condition listed in the Table of Notifiable Diseases or Conditions, Rule 64D-3.029, F.A.C., including in persons who at the time of death were so affected, shall report or cause to be reported all such diagnoses or suspicions per this rule. Reporting of specimen results by a laboratory to a county health department director, administrator or designee does not nullify the practitioner's obligation to report said disease or condition. (2) Any request for laboratory test identification shall be considered a suspicion of disease. However, practitioners need only to report suspected cases if indicated in the "suspect immediately" column under practitioners in the Table of Notifiable Diseases or Conditions, Rule 64D-3.029, F.A.C. (3) Any report of a notifiable disease or condition required by this rule, except for cancer, congenital anomalies and HIV/AIDS, shall be reported on the Florida Department of Health Disease Report Form (DH Form 2136, 3/06), incorporated by reference, available at the Department of Health, Division of Disease Control, 4052 Bald Cypress Way, Bin A-09, Tallahassee, FL 32399-1714, or on a form supplied by the provider that includes the following: (a) The patient's:

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	1. First and last name, including middle initial; 2. Address, including city, state and zip code; 3. Telephone number, including area code; 4. Date of birth; 5. Sex; 6. Race; 7. Ethnicity (specify if of Hispanic descent or not of Hispanic descent); 8. Pregnancy status if applicable; 9. Social Security number; 10. Date of onset of symptoms; 11. Diagnosis. (b) Type of diagnostic tests (for example culture, IgM, serology, Mantoux TB skin test, nucleic acid amplification test or Western Blot); (c) Type of specimen (for example stool, urine, blood, mucus, etc.); (d) Date of specimen collection; (e) Site (for example cervix, eye, etc., if applicable); (f) Diagnostic test results; (g) For Tuberculosis, the 15-digit spoligotype (octal code) must be reported; (h) Treatment given; (i) Name, address and telephone number of the attending practitioner; (j) Other necessary epidemiological information requested by the county health department director or administrator or their designee. (4) The practitioner who first authorizes, orders, requests or submits a specimen to a licensed laboratory for testing for any agent listed in Rule 64D-3.029, F.A.C., is responsible for obtaining and providing the information required by subparagraphs 64D-3.031(3)(a)1.-10., F.A.C., at the time the specimen is sent to or received by the laboratory. (5) Special reporting requirements for HIV and AIDS: (a) All cases of HIV or AIDS, which meet the Centers for Disease Control and Prevention (CDC) case definitions set forth in CDC Guidelines for National Human Immunodeficiency Virus Case Surveillance, Including Monitoring for Human Immunodeficiency Virus Infection and Acquired Immunodeficiency Syndrome, published in Morbidity and Mortality Weekly Report (MMWR) Vol. 48 [RR-13, December 10, 1999], incorporated by reference, available online at: www.cdc.gov/mmwr/PDF/RR/RR4813.pdf, shall be reported on the Adult HIV/AIDS Confidential Case Report, CDC 50.42A Rev. 01/2003, incorporated by reference, or the Pediatric HIV/AIDS Confidential Case Report, CDC 50.42B Rev. 01/2003, incorporated by reference, along with the Department of Health Addendum for Adult HIV/AIDS Confidential Case Report, DH Form 2134, incorporated by reference. All forms are available at county health departments or at the Department of Health, Bureau of HIV/AIDS, 4052 Bald Cypress Way, Bin A-09, Tallahassee, Florida 32399-1715. (b) HIV exposed newborns shall be reported on the Pediatric HIV/AIDS Confidential Case Report, CDC 50.42B Rev. 01/2003, incorporated by reference in paragraph 64D-3.030(5)(b), F.A.C.

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	(6) Each practitioner who makes a diagnosis of or treats any notifiable disease or condition shall make their patient medical records for such diseases or conditions available for on-site inspection by the Department or its authorized representatives.
64D-3.031	**Notification by Laboratories.** (1) Each person or designee who is in charge of a public, federal, private, military or hospital laboratory responsible for receiving the initial order to perform serologic, immunologic, microscopic, biochemical, molecular or cultural tests on specimens derived from a human body or an animal or for collecting the specimen shall report or cause to be reported any laboratory test suggestive of or diagnostic of diseases or conditions listed in the Table of Notifiable Diseases or Conditions, Rule 64D-3.029, F.A.C., per this rule. (2) Receipt of a laboratory test order requesting the identification of reportable agents shall be considered by the laboratory as an indication of suspected diagnosis. However, laboratories need only to report suspected cases if indicated in the "suspect immediately" column under laboratories in the Table of Notifiable Diseases or Conditions, Rule 64D-3.029, F.A.C. (3) To allow follow-up of laboratory findings suggestive of or diagnostic of diseases or conditions in the Table of Notifiable Diseases or Conditions, the form upon which the information will be reported shall be furnished by the laboratory that includes the following information: (a) The Patient's: 1. First and last name, including middle initial; 2. Address including street, city, state and zip code; 3. Phone number, including area code; 4. Date of birth; 5. Sex; 6. Race; 7. Ethnicity (specify if of Hispanic descent or not of Hispanic descent); 8. Pregnancy status if applicable; 9. Social Security number; (b) The Laboratory: 1. Name, address and telephone number of laboratory performing test; 2. Type of specimen (for example stool, urine, blood, mucus, etc.); 3. Date of specimen collection; 4. Site (for example cervix, eye, etc., if applicable); 5. Date of report; 6. Type of tests performed and results, including reference range, titer when quantitative procedures are performed, and including all available results on speciating, grouping or typing of organisms; 7. Submitting provider's name, address including street, city, zip code and telephone number, including area code. (4) Laboratories located out of state, licensed under Part I, Chapter 483, F.S., who collect specimens in Florida or who receive the initial order for testing from a practitioner, blood bank, plasmapheresis center or other health care provider located in Florida, shall report in the same way as if

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	the findings had been made by a laboratory located in Florida. (5) Upon the Department's implementation of its Electronic Laboratory Reporting System (ELR) for laboratory findings suggestive of or diagnostic of diseases or conditions, reports will be submitted electronically to the Department using Health Level Seven (HL7) version 2.3.1 format. The CDC Implementation Guide for Transmission of Laboratory-Based Reporting of Public Health Information using version 2.3.1 of the Health Level Seven (HL7) Standard Protocol, incorporated by reference, is available at the Department of Health, ELR Project, 4052 Bald Cypress Way, Bin A-12, Tallahassee, Florida 32399-1715. (a) The Department's ELR System shall include: 1. The initial contact with the reporting laboratory; 2. A content review and testing of the laboratories' HL7 transmissions; and 3. The transition from testing to production for the HL7 laboratory transmissions. (b) The Department and laboratory will agree on a date of implementation; (c) Laboratories reporting electronically through ELR and the Department shall agree to a date that the transmission of findings suggestive of or diagnostic of diseases or conditions listed in the Table of Notifiable Diseases or Conditions, Rule 64D-3.029, F.A.C., electronically in HL7 version 2.3.1 format to the Department is acceptable and considered good faith reporting and the laboratory will no longer be required to submit paper forms pursuant to subsection 64D-3.031(3), F.A.C.; (d) The Department shall ensure access to the laboratory findings suggestive of or diagnostic of disease or conditions listed in the Table of Notifiable Diseases or Conditions to authorized representatives of the Department. (6) This section does not prohibit a laboratory from making a report by telephone, in writing, or facsimile to the county health department having jurisdiction for the area in which the office of the submitting practitioner or the patient's residence is located. (7)(a) In order to study disease incidence, each laboratory licensed to perform tests for any notifiable disease or condition shall report the test volume for each related diagnostic test performed for the notifiable diseases listed in Rule 64D-3.029, F.A.C. (b) Reports are to be filed annually on or before April 1 of each year to the Department electronically in a format agreed upon by the department and the laboratory with the following information: 1. Type of diagnostic test; 2. Patient's date of birth; 3. Patient's sex; 4. Race; 5. Ethnicity (specify if of Hispanic descent or not of Hispanic descent). (8) Each laboratory licensed to perform tests for any reportable disease or condition shall make its records for such diseases or conditions available for on-site inspection by the Department or its authorized representatives.

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64D-3.032	**Notification by Medical Facilities.** (1) The chief administrative officer of each facility licensed under Chapter 395, F.S., or freestanding radiation therapy centers, as defined in Section 408.07(20), F.S., shall either personally or by appointing an individual from the staff, hereinafter referred to as "reporting individual," report all cases or suspect cases of diseases or positive laboratory findings indicating the presence of a disease or condition listed in Rule 64D-3.029, F.A.C., in all persons admitted to, attended to, or residing in the facility per this rule. (2) The chief administrative officer of each Department of Defense or Veterans Administration (VA) facility located in Florida is requested to appoint an individual from the staff, hereinafter referred to as "reporting individual," to be responsible for reporting all cases or suspected cases of disease or positive laboratory findings indicating the presence of a disease or condition listed in Rule 64D-3.029, F.A.C., in all persons admitted to, attended to, or residing in the facility per this rule. (3) Reporting of a case or suspected case of disease or condition or positive laboratory findings by a facility or center fulfills the requirements of the licensed practitioner and laboratory director to report. It remains the responsibility of the practitioner or laboratory director to ensure that the report is made as stipulated in Rule 64D-3.029, F.A.C. (4) Each facility that reports a notifiable disease or condition or a positive laboratory finding indicating the presence of a notifiable disease shall make its records for such diseases or conditions available for on-site inspection by the Department or its authorized representatives.
64D-3.042	**STD Testing Related to Pregnancy.** (1) Practitioners attending a woman for prenatal care shall cause the woman to be tested for chlamydia, gonorrhea, hepatitis B, HIV and syphilis as follows: (a) At initial examination related to her current pregnancy; and again (b) At 28 to 32 weeks gestation. (2) Exceptions to the testing outlined in subsection (1) above are as follows: (a) A woman, who tested positive for hepatitis B surface antigen (HbsAg) during the initial examination related to her current pregnancy, need not be re-tested at 28-32 weeks gestation. (b) A woman, with documentation of HIV infection or AIDS need not be re-tested during the current pregnancy. (3) Women who appear at delivery or within 30 days postpartum with: (a) No record of prenatal care; or (b) Prenatal care with no record of testing; (c) Prenatal care with no record of testing after the 27th week of gestation shall be considered at a high risk for sexually transmissible diseases and shall be tested for hepatitis B surface antigen (HBsAg), HIV and syphilis prior to discharge. (4) Emergency Departments of hospitals licensed under Chapter 395, F.S., may satisfy the testing requirements under this rule by referring any

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	woman identified as not receiving prenatal care after the 12th week of gestation, to the county health department. (a) The referral shall be in writing; and (b) A copy shall be submitted to the county health department having jurisdiction over the area in which the emergency department is located. (5) Prior to any testing required by this rule, practitioners shall: (a) Notify the woman which tests will be conducted; (b) Inform the woman of her right to refuse any or all tests; (c) Place a written statement of objection signed by the woman each time she refuses required testing in her medical record specifying which tests were refused. If the woman refuses to sign the statement, the provider shall document the refusal in the medical record. No testing shall occur for the infections specified in the refusal statement of objection. (6) Women who had a serologic test for syphilis during pregnancy that was reactive, regardless of subsequent tests that were non-reactive shall be tested as soon as possible at or following delivery. (7)(a) Specimens shall be submitted to a laboratory licensed under Part I, Chapter 483, F.S., to perform tests for chlamydia, gonorrhea, hepatitis B surface antigen (HBsAg), HIV and syphilis. (b) The practitioner submitting the specimens for testing to a licensed laboratory shall state that these specimens are from a pregnant or postpartum woman. (8) Practitioners required by law to prepare birth and stillbirth certificates shall document on the certificate if chlamydia, gonorrhea, hepatitis B, HIV, syphilis infections or genital herpes or genital human papilloma virus were present and/or treated during this pregnancy. (9) Nothing in this rule shall prohibit a practitioner from testing these women for other sexually transmissible diseases in accordance to prevailing national standards, community disease distribution or the professional judgment of the practitioner.