Rules of
Department of Health and Senior Services
Division 20—Division of Environmental Health and Communicable Disease Prevention
Chapter 26—Sexually Transmitted Diseases

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

Division 20—Division of Environmental Health and Communicable Disease Prevention

Chapter 26—Sexually Transmitted Diseases

19 CSR 20-26.010 Prevention of Blindness

PURPOSE: This rule prevents the newborn infant from contracting gonococcal ophthalmia neonatorum or chlamydia ophthalmia neonatorum, or both, during birth from an infected mother.

(1) It shall be the duty of every physician or other person in attendance upon a newborn infant or its mother to instill five-tenths percent (0.5%) erythromycin ophthalmic ointment or drops in single-use tubes or ampules; or tetracycline one percent (1%) ophthalmic ointment or drops in single-use tubes or ampules; or one percent (1%) silver nitrate solution into each eye of the newborn infant immediately after birth and to report this on the birth certificate.

AUTHORITY: section 192.020, RSMo 1986. This rule was previously filed as 13 CSR 50-107.010. Original rule filed April 22, 1955, effective June 21, 1955. Amended: Filed Nov. 4, 1985, effective March 24, 1986.*

**Original authority: 192.020, RSMo 1939, amended 1945, 1951.*

19 CSR 20-26.020 HIV Treatment Program

(Rescinded July 8, 1991)

AUTHORITY: sections 192.005.2 and 192.020, RSMo 1986. Emergency rule filed Sept. 1, 1987, effective Sept. 11, 1987, expired Jan. 9, 1988. Original rule filed Sept. 1, 1987, effective Jan. 9, 1988. Emergency amendment filed June 3, 1988, effective June 13, 1988, expired Oct. 10, 1988. Amended: Filed June 3, 1988, effective Sept. 29, 1988. Amended: Filed July 18, 1989, effective Nov. 11, 1989. Emergency rescission filed March 19, 1991, effective March 31, 1991, expired July 28, 1991. Rescinded: Filed March 19, 1991, effective July 8, 1991.

19 CSR 20-26.030 Human Immunodeficiency Virus (HIV) Antibody Test Consultation and Reporting

PURPOSE: This rule defines the manner in which the sampling and client-centered counseling for HIV antibody testing is to be administered by persons authorized by the Department of Health and positive test results reported to the Department of Health.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.

(1) The following definitions shall be used in administering this rule:

(A) Department means the Missouri Department of Health;

(B) Health care professional means a state licensed professional involved in direct patient care, other than those persons licensed as physicians under Chapter 334, RSMo; and

(C) Window period means the interval between exposure to HIV and development of a positive HIV test.

(2) Except as provided by 19 CSR 20-26.040, a person performing HIV sampling and pre- and posttest counseling services shall be a health care professional or other public health professional authorized by the Department of Health to provide these services and shall provide current and accurate HIV education and testing information in person to the person tested or his or her legal guardian or custodian. If, after investigation by a department employee, the person responsible for providing pre- and posttest counseling services is determined not to be observing the provisions of this rule, the department shall deny authorization.

(A) Pretest client-centered counseling shall occur before HIV sampling and include a knowledge and risk assessment of the person to be tested to determine the person's potential for exposure and infection. The person to be tested shall be asked about his/her basic HIV knowledge, and if such knowledge is lacking, advised of the means of HIV transmission and the meaning of the test results. Informed consent shall be obtained from the person prior to HIV testing, unless otherwise permitted by law. A plan to receive test results shall be established with the person.

(B) Posttest client-centered counseling shall be provided to all persons tested for HIV infection. It shall include the test results and their significance, risk reduction and prevention information, and referral of the person to medical care and other support services as needed. If the test results are positive, included in the posttest counseling, there shall be a discussion of the client's responsibility to ensure that sex/needle-sharing partners are advised of their potential exposure to HIV. If the test result are negative, the person tested shall be advised of the window period and possible need for retesting if exposure has occurred within the window period. If the test results are equivocal, the person shall be advised of the need for retesting.

(C) If the test results are positive, the identity of the person tested along with related clinical and identifying information shall be reported to the department or its designated representative by the person who performs or conducts HIV sampling within three (3) days of receipt of the test results on forms provided by the Department of Health (see Form #1 incorporated into this rule by reference).

(D) Client-centered counseling shall be utilized, as outlined by the current Centers for Disease Control and Prevention *HIV Partner Counseling and Referral Services (PCRS) Guidance*. This method of counseling shall include the following basic elements: a) encourage client participation by informing, reassuring and developing an atmosphere of trust for the client; b) formulating a realistic PCRS plan to assist HIV negative persons to stay negative and HIV positive persons to access support services; and c) assist the HIV positive person in developing a plan for contact tracing and partner notification services.

(E) Sites testing persons under the following situations shall be exempt from reporting the identity of persons testing positive for HIV. These sites shall report HIV positive test results as well as related clinical and other information within three (3) days of receipt of the test results on forms provided by the Department of Health (see Form #1), but shall be exempt from reporting the patient's name and street address—instead a unique patient identifier shall be used:

1. Persons tested anonymously at department-designated anonymous testing sites;

2. Persons tested as part of a research project that is approved by an institutional review board and as part of the research, subjects are tested for HIV infection. Written documentation of institutional review board approval must be submitted to the department's Office of Surveillance; or

3. Where prohibited by federal law or regulation.

(F) Laboratories which perform HIV testing shall report identifying information as specified in 19 CSR 20-20.080.

(G) All persons reported with HIV infection to the department or its designated representative shall be contacted by public health personnel for partner elicitation/notification services according to protocols and procedures established by the department.

(H) The following material is incorporated into this rule by reference:

1. U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, *HIV Partner Counseling and Referral Services (PCRS) Guidance*, December 1998.

AUTHORITY: sections 191.653, 191.656 and 192.006, RSMo Supp. 1999 and 192.020, RSMo 1994. Original rule filed March 14, 1989, effective July 13, 1989. Rescinded and readopted: Filed April 14, 1992, effective Dec. 3, 1992. Emergency amendment filed June 1, 2000, effective June 15, 2000, expired Dec. 11, 2000. Amended: Filed June 1, 2000, effective Nov. 30, 2000.*

**Original authority: 191.653, RSMo 1988, amended 1996; 191.656, RSMo 1988, amended 1992, 1993, 1996, 1999; 192.006, RSMo 1993, amended 1995; 192.020, RSMo 1939, amended 1945, 1951.*

PHYSICIAN'S CONFIDENTIAL REPORT OF HIV INFECTION

PATIENT INFORMATION

1. PATIENT ID NUMBER *(FROM LAB SLIP)*

2. PATIENT NAME *(LAST, FIRST, MI)*

3. ADDRESS *(STREET, APT. #, P.O. BOX NO.)*

CITY, STATE, ZIP CODE

COUNTY | 4. TELEPHONE ( )

5. SS # | 6. DCN #

7. DATE OF BIRTH | 8. AGE | 9. MARITAL STATUS [S] [M] [D] [W] | 10. SEX [M] [F]

11. RACE ☐ White ☐ Black ☐ Asian/Pacific Is. ☐ Am. Indian/AK Native ☐ Other: _____ | 12. Hispanic Ethnicity ☐ Yes ☐ No

13. VITAL STATUS ☐ Living ☐ Deceased – Date of Death: ___ / ___ / ___

14. COUNTRY OF BIRTH ☐ U.S. ☐ Other: _____ ☐ Unknown

PATIENT HISTORY

15. **AFTER 1977, THIS PATIENT HAD:** *(CHECK ALL THAT APPLY)*

Y	N	
☐	☐	Sex With Male
☐	☐	Sex With Female
☐	☐	Injected Non-Prescription Drugs
☐	☐	Received Clotting Factor ☐ VIII ☐ IX ☐ Other:
☐	☐	Blood Transfusion: First ___ / ___ Last ___ / ___
☐	☐	Worked In Health Care Setting: Occupation:
☐	☐	Recipient Of Tissue/Organs/Artificial Insemination Date: ___ / ___

HETEROSEXUAL RELATIONS WITH:

☐	☐	Injection Drug User
☐	☐	Bisexual Male
☐	☐	Person With Hemophilia/Coagulation Disorder
☐	☐	Transfusion/Transplant Recipient With Documented HIV Infection
☐	☐	Person With AIDS/HIV Infection Whose Risk Is Not Known

16. **FOR PEDIATRIC/PERINATAL CASES**

[Y] [N] IF < 13 YEARS OF AGE, MOTHER WITH HIV/AIDS?

If Yes, Mother's Name: _____ Mother's DOB: ___ / ___ / ___

If Newborn, Date Anti-Retroviral Therapy for HIV Prevention Began: ___ / ___ / ___

17. **FOR ADULT FEMALES** **Hepatitis B: HBsAg** ☐ **Pos** ☐ **Neg**

[Y] [N] Patient is Currently Pregnant EDC: ___ / ___ / ___

If Yes, Week of Pregnancy Antiretroviral Therapy Began: _____

☐ ZDV (AZT) ☐ Other: _____

Number of Live-Born Infants Delivered in the Last 18 Months: _____

Provide Birth Information for Most Recent Birth(s):

DOB: ___/___/___ Birth Hospital: _____ Breastfed [Y] [N]

DOB: ___/___/___ Birth Hospital: _____ Breastfed [Y] [N]

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LABORATORY DATA

18. **CURRENT HIV TEST(S)**

HIV Antibody Tests:	Pos	Neg	Incon-clusive	Not Done	TEST DATE MM/DD/YY
HIV-1 EIA	☐	☐	☐	☐	___/___/___
HIV-1 Western Blot/IFA	☐	☐	☐	☐	___/___/___
HIV-1/HIV-2 Combination EIA	☐	☐	☐	☐	___/___/___
Other: _____	☐	☐	☐	☐	___/___/___

HIV Antibody Test Specimen Was:

☐ Serum ☐ Oral Fluid ☐ Urine ☐ Other: _____

HIV Detection Tests:	Pos	Neg	Incon-clusive	Not Done	TEST DATE MM/DD/YY
PCR, DNA or RNA Probe	☐	☐	☐	☐	___/___/___
Culture	☐	☐	☐	☐	___/___/___
Antigen Test	☐	☐	☐	☐	___/___/___
Other: _____	☐	☐	☐	☐	___/___/___

HIV VIRAL LOAD TESTING: (Record most recent testing) TEST DATE MM/DD/YY

☐ Detectable ☐ Non-Detectable

Test Type* Copies/ml ___/___/___

Type 11. NASBA (Organon) 12. RT-PCR (Roche) 13. bDNA (Chiron) 18. Other 19. Unspecified

19. **TESTING LABORATORY NAME(S), ADDRESS(ES), TELEPHONE NUMBER(S):**

20. **If HIV TESTS ARE NOT DOCUMENTED, IS HIV DIAGNOSED BY A PHYSICIAN?**

[Y] [N] **If Yes, Diagnosis Date:** ___ / ___

Provider: _____ **City/State:** _____

21. [Y] [N] **Patient is Past or Present HIV Vaccine Trial Participant**

22. **PREVIOUS HIV TEST?** [Y] [N] **If Yes,** Most Recent Result: [P] [N] [In]

Type of Test: ☐ Antibody ☐ Antigen ☐ PCR ☐ Culture

☐ Qualitative PCR ☐ Quantitative PCR (VL)

☐ Other (specify) _____ Test Date: ___/___/___

Provider: _____

City/State: _____

If Previously Tested, Reason for Retest:

☐ Case Management Eligibility ☐ Medicaid/Medicare Eligibility

☐ High Risk Negative ☐ Client Request

☐ Confirm Diagnosis ☐ Other: _____

23. **CD4+ LYMPHOCYTE COUNT:** TEST DATE MO/YR

Most Recent CD4+ Count . . . .[ ],[ ][ ][ ] cells/µL ___ / ___

CD4+ Percent . . . . . [ ][ ] % ___ / ___

First CD4+below 200µL or 14% [ ],[ ][ ][ ] cells/µL ___ / ___

(If Known) [ ][ ] % ___ / ___

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CLINICAL STATUS

24. [Y] [N] PATIENT MEDICALLY EVALUATED? **If Yes, Check All That Apply**

- ☐ Asymptomatic
- ☐ Symptomatic, No History of AIDS-Defining Illness
- ☐ CD4+ is now or has been <200/14%
- ☐ Symptomatic, AIDS-Defining Illness Diagnosed

	Def.	Pres.	Mo/Yr
• Candidiasis, bronchi, trachea, lungs	☐	☐	___/___
• Candidiasis, esophageal	☐	☐	___/___
• Carcinoma, invasive cervical	☐	☐	___/___
• Coccidioidomycosis, disseminated or extrapulmonary	☐	☐	___/___
• Cryptococcosis, extrapulmonary	☐	☐	___/___
• Cryptosporidiosis, chronic intestinal	☐	☐	___/___
• Cytomegalovirus disease (other than liver, spleen, or nodes)	☐	☐	___/___
• Cytomegalovirus retinitis (vision loss)	☐	☐	___/___
• HIV encephalopathy	☐	☐	___/___
• Herpes simplex: chronic ulcer(s); or bronchitis, pneumonitis, esophagitis	☐	☐	___/___
• Histoplasmosis, dissem. or extrapulm.	☐	☐	___/___
• Isosporiasis, chronic intestinal (>1 mo)	☐	☐	___/___
• Kaposi's sarcoma	☐	☐	___/___
• Lymphoma, Burkitt's (or equivalent)	☐	☐	___/___
• Lymphoma, immunoblastic (or equiv.)	☐	☐	___/___
• Lymphoma, primary in brain	☐	☐	___/___
• *M. avium* complex or *M. kansasii*, disseminated or extrapulmonary	☐	☐	___/___
• *M. tuberculosis*, pulmonary	☐	☐	___/___
• *M. tuberculosis*, dissem. or extrapulm.	☐	☐	___/___
• *Mycobacterium*, of other or unidentified species, dissem. or extrapulm.	☐	☐	___/___
• *Pneumocystis carinii* pneumonia	☐	☐	___/___
• Pneumonia, recurrent in 12 mo period	☐	☐	___/___
• Progressive multifocal leukoencephalopathy	☐	☐	___/___
• *Salmonella* septicemia, recurrent	☐	☐	___/___
• Toxoplasmosis of brain	☐	☐	___/___
• Wasting syndrome due to HIV	☐	☐	___/___
Pediatric: *(Additional Indicator Diseases)*			
• Bacterial infections, multiple or recurrent, (incl. *Salmonella* septicemia)	☐	☐	___/___
• Lymphoid interstitial pneumonia and/or pulmonary lymphoid hyperplasia	☐	☐	___/___

25. If AIDS, Facility of Diagnosis: _____

City/State: _____

☐ Public ☐ Private ☐ Federal

TYPE OF FACILITY WHERE AIDS WAS DIAGNOSED: *(Check One)*

☐ Hospital Inpatient ☐ Hospital Outpatient ☐ Public Clinic

☐ Physician's Office ☐ Other: _____

Def. = definitive diagnosis **Pres. = presumptive diagnosis** **Mo/Yr = date of initial diagnosis**

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INTERVENTION/PREVENTION SERVICES

26. [Y] [N] Patient (or Parent/Guardian) Informed of HIV Infection Status
[Y] [N] Physician Has Performed Spousal Notification
[Y] [N] Physician Requests Partner Notification Assistance
[Y] [N] Physician Requests Support/Referral Information Services
[Y] [N] Patient is Receiving Treatment for HIV/AIDS
If Yes, ☐ Antiretroviral ☐ OI Prophylaxis

27. **PATIENT'S MEDICAL TREATMENT PRIMARILY REIMBURSED BY:**

- ☐ Private Insurance, HMO
- ☐ Private Insurance, Non HMO
- ☐ Medicaid Managed Care
- ☐ Medicaid Fee-for-Service
- ☐ Medicare
- ☐ Self Pay
- ☐ No Coverage
- ☐ Other: _____

28. **PHYSICIAN NAME, ADDRESS, TELEPHONE:**

29. **PERSON COMPLETING HIV REPORT:**

30. **DATE:**

31. **COMMENTS:**

TO REFER AN HIV-INFECTED CLIENT

FOR: ***HIV/AIDS Care Case Management Services***
KANSAS CITY: 816/513-6229; ST. LOUIS: 314/612-5188
Or the Missouri Department of Health (MDOH)
Section of STD/HIV/AIDS Prevention & Care Services
Jefferson City, MO - PH: 573/751-6439

FOR: ***Public Health Counseling and Intervention Services (Partner Notification OR Level II Client*)***
Kansas City: 816/513-6152; St. Louis: 314/612-5200
Your Local County or District Health Office, or the MDOH
Office of Surveillance, Jefferson City, MO - PH: 573/751-6148

TO OBTAIN ADDITIONAL INFORMATION:

- HIV CLINICAL CONSULTATION SERVICE: 1-800-933-3413
- OCCUPATIONAL EXPOSURE PROPHYLAXIS HOTLINE: 1-888-448-4911
- HIV/AIDS TREATMENT INFO. SERVICE: 1-800-HIV-0440
- NATIONAL AIDS HOTLINE: 1-800-342-AIDS
- MO HIV/STD HOTLINE: 1-800-533-AIDS
- KC HIV/AIDS HOTLINE: 816/ 513-6000

(*An HIV-infected person who **knowingly** continues to expose others to HIV)

Health Department Use Only: Type of Report: V/Y SD

Initial Source: _____ Report Source: _____

To Report Confirmed HIV/AIDS Infection (within 3 Days of Diagnosis) or Obtain Additional Report Forms, Contact the Missouri Department of Health or Appropriate City Health Department (Addresses Below)

SUBMIT REPORT TO:

Missouri Department of Health-OOS
930 Wildwood, P.O. Box 570
Jefferson City, MO 65102-0570
Tel: (573) 751-6463

Kansas City Health Department
Suite 2100, Surveillance Unit
2400 Troost Ave., Kansas City, MO 64108
Tel: (816) 513-6152

St. Louis Dept. of Health and Hospitals
Surveillance Unit / Room 436
634 No. Grand Blvd., St. Louis, MO 63103
Tel: (314) 612-5188

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19 CSR 20-26.040 Physician Human Immunodeficiency Virus (HIV) Test Consultation and Reporting

PURPOSE: This rule establishes guidelines specific to physicians and other health care professionals working under physician orders for HIV testing, pretest and posttest consultation (client-centered counseling), and for the reporting of persons diagnosed with HIV infection.

(1) The following definitions shall be used in administering this rule:

(A) Conduct means to direct, lead, order or undertake to perform or to provide guidance as a licensed physician to a patient;

(B) Confirmed HIV infection means the clinical diagnosis and conclusion that a patient is infected with HIV, made in the professional judgment of the physician based upon clinical history, physician examination, diagnostic or laboratory testing or other available clinical information which allows the physician to make clinical and therapeutic decisions based upon this infected status;

(C) Department means the Missouri Department of Health;

(D) Physician means any person licensed to practice as a physician and surgeon under Chapter 334, RSMo; and

(E) Physician's delegated representative means state licensed professional involved in direct patient care, other than those persons licensed as physicians under Chapter 334, RSMo.

(2) The physician or the physician's delegated representative shall provide consultation with the patient or his/her legal guardian or custodian prior to conducting HIV testing, and to the patient, guardian or custodian during the reporting of the test results or diagnosis.

(A) The physician or the physician's delegated representative shall only be allowed to provide consultation through the use of protocols and standing orders which shall be written, signed and dated by the physician prior to their implementation or, in the case of a hospital, the policies and procedures as approved by the medical staff.

(B) The scope of the consultation shall be governed by the physician's professional judgment based on the clinical situation, including the purpose of and need for HIV testing, and shall be at least as comprehensive as the type of consultation provided for other diagnostic tests or procedures.

(3) The physician shall report to the department or its designated representative the identity of any person with confirmed HIV infection along with related clinical and identifying information within three (3) days of receipt of the test results on forms provided by the department (see Form #1 following 19 CSR 20-26.030).

(4) Physicians testing persons under the following situations shall be exempt from reporting the identity of the person testing positive for HIV. In these situations, physicians shall report HIV positive test results as well as related clinical and other information within three (3) days of receipt of the test results on forms provided by the department (see Form #1 following 19 CSR 20-26.030), but shall be exempt from reporting the patient's name and street address—instead a unique patient identifier shall be used.

(A) Persons tested as part of a research project which is approved by an institutional review board and in which, as part of the research, subjects are tested for HIV infection. Written documentation of institutional review board approval must be submitted to the department's Office of Surveillance; or

(B) Where prohibited by federal law or regulation.

(5) All persons reported with HIV infection to the department or its designated representative can be contacted by public health personnel for partner elicitation/notification services according to protocols and procedures established by the department.

(6) Laboratories which perform HIV testing shall report identifying information as specified in 19 CSR 20-20.080.

AUTHORITY: sections 191.653, 191.656, and 192.006, RSMo Supp. 1999 and 192.020, RSMo 1994. Original rule filed April 14, 1992, effective Dec. 3, 1992. Emergency amendment filed June 1, 2000, effective June 15, 2000, expired Dec. 11, 2000. Amended: Filed June 1, 2000, effective Nov. 30, 2000.*

**Original authority: 191.653, RSMo 1988, amended 1996; 191.656, RSMo 1988, amended 1992, 1993, 1996, 1999; 192.006, RSMo 1993, amended 1995; 192.020, RSMo 1939, amended 1945, 1951.*

19 CSR 20-26.050 Preventing Transmission of Human Immunodeficiency Virus (HIV) and Hepatitis B Virus (HBV) from Health Care Workers to Patients

PURPOSE: This rule establishes training requirements relating to the prevention of transmission of human immunodeficiency virus, hepatitis B virus and other bloodborne pathogens from infected health care workers to patients as defined in section 191.694, RSMo.

(1) The following definitions shall be used in the interpretation of this rule:

(A) Community-based means practice in any clinic, group practice or solo practice not licensed under Chapters 197 and 198, RSMo where health care, including dentistry and podiatry, is provided;

(B) Department means the Missouri Department of Health;

(C) Director means the director of the department or his/her designee;

(D) Employed means to be professionally affiliated with a facility either by contract, direct employment or extension of professional privileges;

(E) HBV means hepatitis B virus;

(F) Health care facilities means those facilities licensed under Chapters 197 and 198, RSMo;

(G) Health care professional means a member of any of the professional groups regulated by Chapters 330, 332 and 335, RSMo, and sections 334.010–334.265, RSMo;

(H) HIV means human immunodeficiency virus; and

(I) Invasive procedures shall be defined as in 191.650(9), RSMo. Phlebotomy and insertion of intravenous lines which do not involve surgical incision are not considered invasive procedures.

(2) Health care professionals in both health care facility-based and community-based practice settings shall adhere to the training requirements contained in section 191.694, RSMo. The department shall investigate complaints of noncompliance in facility-based practice settings. Complaints of noncompliance in community-based practice settings shall be referred to the appropriate licensing authority.

(3) Health care professionals performing invasive procedures who do not receive training in a health care facility regarding infection control procedures, universal precautions and prevention of percutaneous injuries shall obtain that training elsewhere on an annual basis. Training shall be in compliance with Occupational Safety and Health Administration (OSHA) requirements in 29 CFR 1910.1030. Training shall be also be in compliance with section 191.694, RSMo and with recommendations published by the Centers for Disease Control and Prevention in the

Morbidity and Mortality Weekly Report: Recommendations for Prevention of HIV Transmission in Health-Care Settings, August 21, 1987; *Update: Universal Precautions for Prevention of Transmission of Human Immunodeficiency Virus, Hepatitis B Virus, and Other Bloodborne Pathogens in Health-Care Settings*, June 24, 1988; and *Guidelines for Prevention of Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Health-Care and Public-Safety Workers*, June 23, 1989. Documents that validate the completion of that training shall be maintained by the health care professional for a period of three (3) years and shall be made available to the department upon request.

AUTHORITY: section 191.694.4, RSMo 2000. Original rule filed April 17, 1995, effective Nov. 30, 1995. Emergency amendment filed May 10, 2002, effective July 1, 2002, expired Dec. 28, 2002. Amended: Filed May 10, 2002, effective Nov. 30, 2002.*

**Original authority: 191.694, RSMo 1992.*

19 CSR 20-26.060 Voluntary Evaluation for Human Immunodeficiency Virus (HIV)- and Hepatitis B Virus (HBV)-Infected Health Care Professionals Who Perform Invasive Procedures

PURPOSE: This rule establishes procedures for the voluntary evaluation of human immunodeficiency virus- and hepatitis B virus-infected health care professionals who perform invasive procedures in order to determine whether practice restrictions or limitations should be applied, as defined in section 191.700, RSMo.

(1) The definitions in 19 CSR 20-26.050 shall be used in the interpretation of this rule.

(2) Any health care professional who performs invasive procedures is advised to know his/her human immunodeficiency virus (HIV) antibody status and hepatitis B surface antigen (HBsAg) status. If HBsAg is present, the presence or absence of hepatitis B e antigen (HBeAg) shall be determined. If a significant occupational exposure occurs which could place the health care professional at risk of acquiring HIV or hepatitis B virus (HBV) infection, appropriate post-exposure evaluation should be undertaken.

(3) HIV- or HBV-infected health care professionals who perform invasive procedures may be voluntarily evaluated by an expert review panel appointed by the department according to section 191.700, RSMo. This panel shall follow subsections (3)(A)–(P) of this rule.

(A) Health care professionals infected with HIV or HBV who perform invasive procedures and who choose to be evaluated by an expert review panel appointed by the department according to section 191.700, RSMo shall apply for the evaluation in writing to the director. Directors of health care facilities (chief administrative officers or equivalents) allowed by 191.700.2(1), RSMo to seek evaluation of infected health care professionals who perform invasive procedures shall, with the consent of the infected health care professional and after consultation with the professional's private physician, apply in writing to the director of the Department of Health.

(B) Upon receipt of a written request for evaluation, the director shall appoint an expert review panel by utilizing the following criteria:

1. The panel shall include those individuals specified by 191.700.2(2)(a)–(d), RSMo and may include additional individuals if the director determines this is necessary; and

2. The director shall seek input from appropriate professional organizations in making his/her appointments.

(C) The subject of the evaluation shall provide the director with a list of all health care facilities and community-based practices, regardless of location, where the subject performs invasive procedures.

(D) The expert review panel shall utilize the following to evaluate the health care professional's practice:

1. Criteria specified in 191.700.2(3), RSMo;

2. Verification of the health care professional's licensure status;

3. Current, scientific evidence that is available; and

4. Panel members' professional judgments.

(E) Panel members shall be subject to the requirements of section 191.656, RSMo regarding the confidentiality of information on an HIV-infected health care professional's infection status.

(F) The health care professional shall be allowed to appear before the panel and present any information which s/he believes to be pertinent to the panel's task. The health care professional's personal physician(s) and any other individual(s) the health care professional believes can provide pertinent input into the process shall be allowed to appear before the panel.

(G) The panel may recommend that restrictions or limitations be placed on the practice of the health care professional.

(H) The panel shall require the health care professional to notify any affected patient in a timely manner whenever a parenteral or mucous membrane exposure to the health care professional's blood occurs.

(I) The panel's findings and recommendations shall be conveyed in writing to the health care professional and to the director.

(J) The director shall disclose to the chief administrative officer or equivalent individual in each health care facility or community-based practice where the health care professional is performing invasive procedures any restrictions or limitations placed on his/her practice by the panel.

(K) If the health care professional seeks to affiliate with an additional health care facility or community-based practice, regardless of its location, where s/he will be performing invasive procedures, s/he shall disclose to the chief administrative officer or equivalent individual in that facility or practice the findings of the review panel, and any restrictions or limitations placed on his/her practice by the panel, prior to the affiliation and the provision of patient care. S/he shall also advise the department of the new practice location.

(L) If the health care professional plans to begin performing invasive procedures at a health care facility or community-based practice where s/he is currently affiliated but not presently performing those procedures, s/he shall disclose to the chief administrative officer or equivalent individual in that facility or practice the findings of the review panel, and any restrictions or limitations placed on his/her practice by the panel, prior to the performance of any invasive procedures, and report his/her intention to begin performing invasive procedures in writing to the director prior to beginning to perform these procedures.

(M) If the review panel places restrictions or limitations on the health care professional's practice, it shall be the responsibility of each health care facility where s/he is employed and performing invasive procedures to monitor him/her for compliance at appropriate intervals, at least annually, based on his/her medical status and the types and frequencies of invasive procedures s/he performs. If a facility finds the health care professional to be noncompliant, it shall report this in writing to the appropriate state board, as provided under Chapters 330, 332, 334 or 335, RSMo, and to the director.

(N) If the review panel places restrictions or limitations on the practice of a health care professional who performs invasive procedures in a community-based setting, it shall be the responsibility of the department to

monitor him/her for compliance in this setting at appropriate intervals, at least annually, based on his/her medical status and the types and frequencies of invasive procedures s/he performs. If the department finds the health care professional to be noncompliant, it shall report this in writing to the appropriate state board, as provided under Chapters 330, 332, 334 or 335, RSMo, and to the director.

(O) If the director becomes aware that the infected health care professional is noncompliant with practice restrictions or limitations at any location where s/he is performing invasive procedures, the director shall report this noncompliance to the chief administrative officer or equivalent individual in each health care facility and community-based practice where the health care professional performs invasive procedures.

(P) The panel shall require, as necessary, that the infected health care professional undergo periodic reviews to determine if the decision to place or not to place restrictions or limitations on his/her practice needs to be modified because of changes in his/her medical condition or some other relevant circumstance. If a review results in the panel making such a modification, this modification shall be conveyed in writing to the health care professional and the director. If the modification results in restrictions or limitations, or further restrictions or limitations, being placed on the health care professional, the director shall disclose this modification to the chief administrative officer or equivalent individual in each health care facility or community-based practice where the health care professional is performing invasive procedures.

(Q) If restrictions or limitations have been placed on a health care professional's practice by the panel and if later there is a change in the individual's medical condition or some other relevant circumstance, and as a result s/he believes that the restrictions or limitations should be modified, s/he may request in writing to the director that the panel consider such a modification. A similar written request may also be made by the director or chief administrative officer of a health care facility with the consent of the infected health care professional and after consultation with his/her private physician. The panel shall review the information and determine whether modification is necessary. If a modification is made, this shall be conveyed in writing to the health care professional and the director. If the modification results in further restrictions or limitations being placed on the health care professional, the director shall disclose this modification to the chief administrative officer or equivalent individual in each health care facility or community-based practice where the health care professional is performing invasive procedures.

(4) As described in 191.700.2(5)(d), RSMo, a health care facility peer review panel may evaluate HIV- or HBV-infected health care professionals who perform invasive procedures. This evaluation process may be accessed directly by an infected health care professional, or by the director of a health care facility with the consent of the infected health care professional and after consultation with his/her private physician. This evaluation shall take place as follows:

(A) If a health care facility regulated under sections 197.010–197.120, RSMo maintains or establishes an internal peer review panel for the evaluation of HIV- or HBV-infected health care professionals who perform invasive procedures, this panel shall—

1. Maintain the confidentiality of the infected health care professional. Panel members shall be subject to the requirements of section 191.656, RSMo regarding the confidentiality of information on an HIV-infected health care professional's infection status;

2. Conduct an evaluation of the infected health care professional and his/her practice. This evaluation and any recommendations shall be based on the premise that HIV or HBV infection alone does not justify limiting the health care professional's duties;

3. Allow the health care professional to appear before the peer review panel and present any information which s/he believes to be pertinent to the panel's task. The health care professional's personal physician(s), as well as any other individual(s) the health care professional believes can provide input into the process, shall be allowed to appear before the panel;

4. Establish, utilizing the criteria specified in subsection (3)(D) of this rule, whether restrictions or limitations shall be placed on the practice of the health care professional. If the panel is uncertain about whether a specific procedure may pose some risk of HIV or HBV transmission, it may recommend that this procedure be performed only after the patient has been informed of the health care professional's infection status;

5. Require the health care professional to notify any affected patient in a timely manner whenever a parenteral or mucous membrane exposure to the health care professional's blood occurs;

6. Report its findings and recommendations in writing to the health care professional;

7. Report its findings and recommendations in writing to the director including how the evaluation process was conducted. The department shall review the report to determine concurrence with 191.700.2(5)(d), RSMo and this rule. Results of the department's review shall be reported back to the facility. In the event the health care professional later seeks an evaluation by a department-appointed panel, the findings and recommendations of the facility's peer review panel shall be included as part of this evaluation; and

8. Require, as necessary, that the infected health care professional undergo periodic reviews to determine if the decision to place or not to place restrictions or limitations on his/her practice needs to be modified because of changes in his/her medical condition or some other relevant circumstance. If a review results in the panel making such a modification, this modification shall be conveyed in writing to the health care professional and the director; and

(B) When a facility's internal peer review panel conducts a review in concurrence with 191.700.2(5)(d), RSMo and this rule, the following shall be performed:

1. The infected health care professional shall provide a list to the director of all other health care facilities and community-based practices, regardless of location, where s/he performs invasive procedures. The director shall disclose to the chief administrative officer or equivalent individual in each of these other facilities and practices any restrictions or limitations placed on the health care professional's practice by the panel;

2. If the health care professional seeks to affiliate with an additional health care facility or community-based practice, regardless of its location, where s/he will be performing invasive procedures, s/he shall disclose to the chief administrative officer or equivalent individual in that facility or practice the findings of the peer review panel, and any restrictions or limitations placed on his/her practice by the panel, prior to the affiliation and the provision of patient care, and notify the department of the new practice location;

3. If the health care professional plans to begin performing invasive procedures at a health care facility or community-based practice where s/he is currently affiliated but not presently performing those procedures, s/he shall disclose to the director or chief administrative officer in that facility or practice the findings of the peer review panel, and any restrictions or limitations placed on his/her practice by the panel, prior to the performance of any invasive procedures, and report the change in practice to the department;

4. It shall be the responsibility of each health care facility where the health care professional is employed and performing invasive procedures to monitor him/her for compliance with the practice restrictions or limitations at appropriate intervals, at least annually, based on his/her medical status and the types and frequencies of invasive procedures s/he performs. If a facility finds the health care professional to be noncompliant, it shall report this in writing to the appropriate state board, as provided under Chapters 330, 332, 334 or 335, RSMo, and to the director;

5. If the health care professional also performs invasive procedures in a community-based setting, it shall be the responsibility of the department to monitor him/her for compliance with the restrictions or limitations in this setting at appropriate intervals, at least annually, based on his/her medical status and the types and frequencies of invasive procedures s/he performs. If the department finds the health care professional to be noncompliant, it shall report this in writing to the appropriate state board, as provided under Chapters 330, 332, 334 or 335, RSMo, and to the director;

6. If the director becomes aware that the infected health care professional is noncompliant with practice restrictions or limitations at any location where s/he is performing invasive procedures, the director shall report this noncompliance to the director or chief administrator in each health care facility and community-based practice where the health care professional performs invasive procedures;

7. If the peer review panel, as a result of a periodic review of the infected health care professional's status, makes a modification in its recommendations that results in restrictions or limitations, or further restrictions or limitations, being placed on the health care professional, the director shall disclose this modification to the chief administrative officer or equivalent individual in any other health care facilities or community-based practices where the health care professional is performing invasive procedures; and

8. If restrictions or limitations have been placed on a health care professional's practice by the peer review panel and if later there is a change in the health care professional's medical condition or some other relevant circumstance, and as a result s/he believes that the restrictions or limitations should be modified, s/he may request that the panel consider the modification. The panel shall review the pertinent evidence and determine whether such modification shall be made. If a modification is made, this shall be conveyed in writing to the health care professional and the director. If the modification results in further restrictions or limitations being placed on the health care professional, the director shall disclose the modification to the chief administrative officer or equivalent individual in any other health care facilities or community-based practices where the health care professional is performing invasive procedures.

AUTHORITY: section 191.700.2, RSMo 2000. Original rule filed April 17, 1995, effective Nov. 30, 1995. Emergency amendment filed May 10, 2002, effective July 1, 2002, expired Dec. 28, 2002. Amended: Filed May 10, 2002, effective Nov. 30, 2002.*

**Original authority: 191.700.2, RSMo 1992.*

19 CSR 20-26.070 Notification of Results of Court-Ordered Human Immunodeficiency Virus (HIV) Testing of Sexual Offenders

PURPOSE: This rule establishes the procedure for notifying victims and jail or correctional facility administrators and the offenders of results when sexual offenders undergo court-ordered testing for human immunodeficiency virus.

(1) If a court orders a person to undergo HIV testing under section 191.663, RSMo, the following information shall be reported by the court to the Section of STD/HIV/AIDS Prevention and Care Services:

(A) The identity of the person to be tested;

(B) The name and address of the facility which will submit the sample for testing;

(C) The name and address of the laboratory which will conduct the testing, if known;

(D) The name, address and telephone number of each victim who has a right to access the HIV test results under section 191.663, RSMo; and

(E) The name, address and telephone number of the administrator of the jail or correctional facility where the sexual offender is confined.

(2) All results of HIV testing performed under the provisions of section 191.663, RSMo, shall be reported by the laboratory performing the test to the Office of Surveillance.

(3) Section of STD/HIV/AIDS Prevention and Care Services counseling and intervention staff shall convey the results of the testing, along with appropriate counseling and any necessary referral assistance, to each victim.

(4) Section of STD/HIV/AIDS Prevention and Care Services staff shall convey the results of the testing, along with any necessary educational information relative to those results, to the administrator of the jail or correctional facility in which the sexual offender is confined.

(5) Section of STD/HIV/AIDS Prevention and Care Services staff shall ensure that the results of the HIV testing are conveyed to the sexual offender appropriately and confidentially.

AUTHORITY: section 191.663, RSMo Supp. 1999. Emergency rule filed Nov. 2, 1994, effective Nov. 12, 1994, expired March 11, 1995. Emergency rule filed March 1, 1995, effective March 12, 1995, expired July 9, 1995. Original rule filed Nov. 2, 1994, effective May 28, 1995. Amended: Filed June 1, 2000, effective Nov. 30, 2000.*

**Original authority: 191.663, RSMo 1990, amended 1992, 1993, 1996, 1999.*