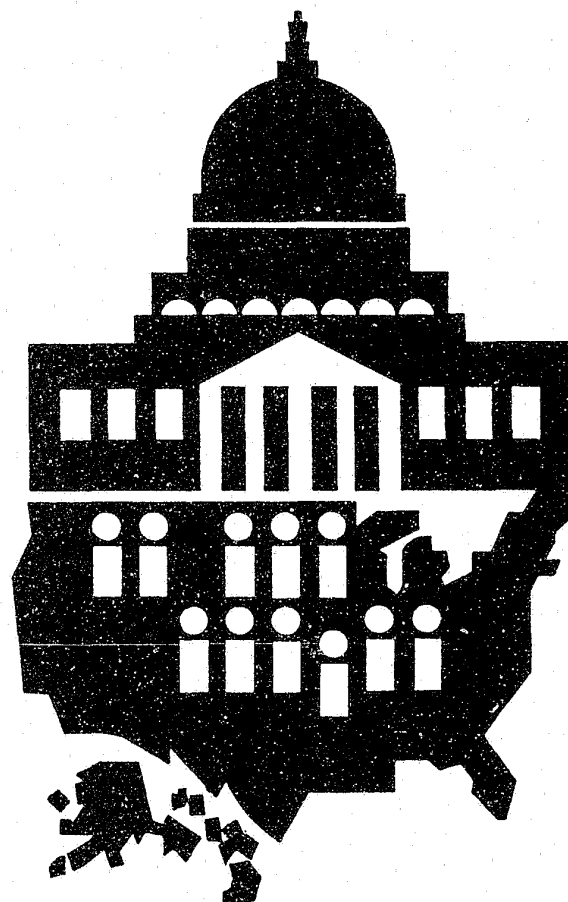


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**INTERGOVERNMENTAL
HEALTH POLICY PROJECT
George Washington University**



Intergovernmental Health Policy Project
George Washington University

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STATE AIDS LEGISLATION RELATED TO WORKER

NOTIFICATION AND EXPOSURE: 1983-1988

Intergovernmental Health Policy Project
AIDS Policy Center
The George Washington University

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I. INTRODUCTION

Since the AIDS epidemic began, the need to notify workers has been a controversial issue. Despite the low probability of becoming infected, health care workers, the general public and fellow employees fear that they may be exposed to the virus in such a way that transmission is possible. As science reveals more about the disease, it has become clear that the possibility for transmitting AIDS is limited to narrow circumstances. The usual public health concern is to stem the transmission of serious, highly infectious, easily transmitted blood-borne disease, like Hepatitis B. Yet, the concerns of constituents is often reflected in state law. Currently, the need to notify health care workers of possible exposure to infectious or communicable disease ranks among the AIDS issues most frequently addressed by state legislatures, with only HIV testing, confidentiality, and counseling having a higher frequency.¹

This report presents findings from a 50 state review of worker notification laws enacted from 1983 to 1988. More than 100 laws, passed by state legislatures, were reviewed to determine how states manage: 1) incidents involving exposure; 2) required notification procedures; 3) testing after exposure; 4) confidentiality, and, 5) mandates for universal precautions. The report does not include any review of bills currently under consideration by state legislatures or an indepth review of state regulations developed as administrative rules or procedures.

The various provisions found in state laws are summarized in a series of matrices appended to the report. Because the legislative trend is to include more comprehensive provisions, including more sophisticated procedures to manage worker notification and testing, one set of matrices represents the state legislation between 1983 and 1987 and another represents 1988 laws only. For example, by the end of 1987, sixteen states had passed legislation requiring -- primarily emergency medical technicians (EMTs) and funeral personnel -- to be notified if they were exposed to HIV and other diseases. By the end of 1988, more than three-fifths, or 32 states, had passed laws requiring or

¹ For purposes of this report, acquired immune deficiency syndrome (AIDS) is clinically defined by the presence of certain cancers or rare infections that develop because of the breakdown of the immune system. AIDS is caused by a retrovirus known as human immunodeficiency virus (HIV). A positive serologic test for HIV is considered indicative of HIV infection.

permitting workers to be notified of potential exposure. Exhibit 1 lists states that require workers to be notified.

The matrix approach allows the reader to determine the type of provision applicable in any one state and compare them across jurisdictions. The series of matrices are preceded by a brief methodology section that defines the matrix headings, which are purposefully short and concise. The second section presents the highlights and trends provided by the analysis and review of state laws. An appendix follows the matrices, offering an abstract or explanation of some state laws. Examples of state rules and regulations affecting worker notification are also included in the appendix.

II. METHODOLOGY

As Exhibit 2 illustrates, worker notification is a complicated issue that involves many related policy questions. Few state laws have addressed all of the questions in a comprehensive manner, either because the issue is already covered in regulations or because laws were adopted to answer the narrow question -- do workers have the right to be notified: a) if they are managing a HIV infected patient; or, b) if they were exposed to blood and body fluids in any manner that could transmit HIV infection? Often the questions of how these notifications will occur and with what procedural safeguards have not been addressed.

Many of these issues were reviewed by the AIDS Policy Center and are presented in the series of matrices attached as appendices to this report. Each matrix and the specific headings or categories of information are discussed below.

A. WORKER NOTIFICATION

Under many state laws, workers can be notified if they come into general contact with or sustain significant exposure to disease. Five disease categories generally trigger notification. These include those that are infectious, contagious/communicable, HIV/AIDS, Hepatitis B, and sexually transmitted diseases. The general circumstances often found in the language of the laws that could trigger notification are: a broadly-defined situation where "any contact" or "possible exposure" occurs; a more specific exposure to blood and body fluid; transporting or handling the body of a deceased person who has the disease; or any situation that is capable of causing or transmitting an infection.

EXHIBIT 1

STATES REQUIRING AND NOT REQUIRING WORKER NOTIFICATION

REQUIRED

Alabama
Arizona
California
Delaware
Florida
Georgia
Hawaii
Illinois
Indiana
Iowa
Kansas
Kentucky
Louisiana
Maine
Maryland
Massachusetts

REQUIRED

Michigan
Mississippi
Missouri
New Jersey
North Dakota
Oklahoma
Rhode Island
South Carolina
South Dakota
Tennessee
Texas
Utah
Virginia
Washington
West Virginia
Wisconsin

NOT REQUIRED

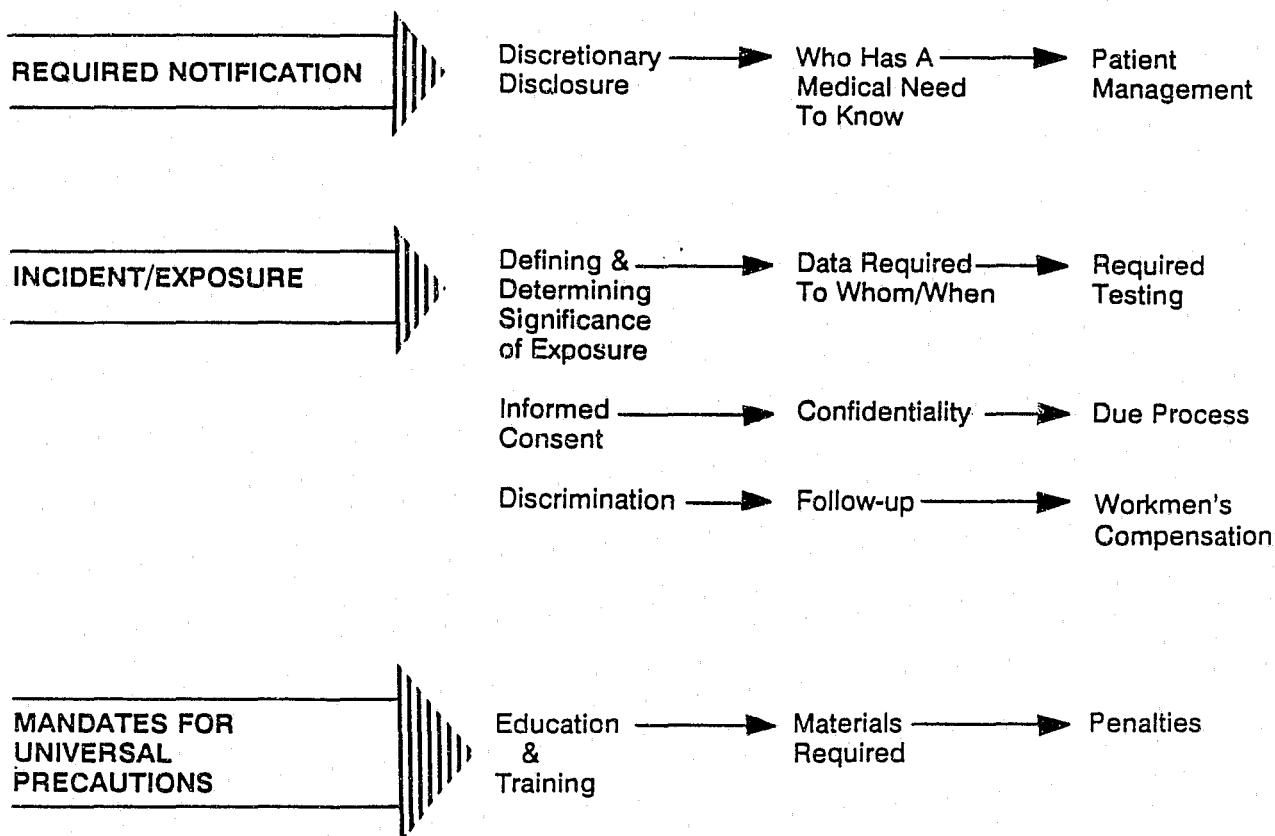
Alaska
Arkansas
Colorado
Connecticut
District of Columbia
Idaho
Minnesota
Montana
Nebraska
Nevada
New Hampshire
New Mexico
New York
North Carolina
Ohio
Oregon
Pennsylvania
Vermont
Wyoming

Source: AIDS Policy Center, Intergovernmental Health Policy Project
The George Washington University, January, 1989

EXHIBIT 2

HOW HAVE STATES ADDRESSED THE ISSUE?

ISSUES REVIEWED IN STUDY



Source: AIDS Policy Center, Intergovernmental Health Policy Project
The George Washington University, January, 1989

In some states, notification is triggered only after a significant exposure. These situation may be defined by state law or by state regulation. Often a physician or a designee of a health care facility, a public health official (e.g., state or local health officer), or other type of health care professionals (e.g., registered nurse) may determine if the exposure or contact was significant. As shown on the matrices, these personnel may also be involved in deciding if a source patient should be tested, if such testing is required or permitted in the state.

Two groups of personnel who could be notified of a patient's disease status include emergency medical care technicians (EMTs) and other first responders -- a frequent and urgent focus of most legislation. In addition, fire-fighters and law enforcement officers (most often local and state police) are specifically listed as first responders. A second group of personnel who could be notified includes other health care providers, prison and jail workers, other state institutional workers (often in mental health/mental retardation facilities), transporters for funeral homes, funeral directors, embalmers and laboratory technicians. As shown in the matrices, the same personnel could also request that a source patient be tested after exposure, if such procedures are required or permitted in the state.

B. WORKER NOTIFICATION PROCEDURES

These matrices reflect the fact that, in some states, workers can be notified only after an exposure is documented. The report may then be filed with the facility designee or physician, employer, state health department, local health officer or some other designee, such as the courts. Often the procedures designate who has the responsibility to notify the worker and who is to be notified. Other mandated procedures include that the notification must be: a) made with a specified time period; b) written; and, c) made only if the source patient tests HIV positive. Penalties for failure to notify are either civil or criminal.

Some states include other procedural requirements or considerations in the notification process. Generally, these are that: a) the worker must be told what infection control precautions to take; b) medical follow-up for the worker is either required or suggested; c) the worker must be counseled; d) the worker must be tested; and, e) on-the-job exposure resulting in infection is legally considered work-related disability.

C. TESTING AFTER EXPOSURE/CONTACT

These matrices cover the questions of who requests the test, who determines the test is necessary, what types of procedural requirements are mandated before testing can occur, and who pays for the test. Concerns about test requirements/procedures relate to: a) how the testing of the source patient is managed; b) procedures that the exposed worker must follow; c) how the incident must be reported; and, d) how the testing must be performed.

In terms of testing the source patient, some states mandate: a) whether the patient must be tested after work exposure; b) if consent for testing must be obtained from the patient; c) if the patient must be counseled; d) if patients must be told of their right to refuse the test; and, 3) if patients must be notified of their test results. Court orders may be required, if the patient refuses to be tested. Provisions regarding exposed workers cover whether they must also be tested for HIV and counseled regarding the exposure.

The matrices indicate in which states an exposure report must be filed or an exposure incident must be found significant before a patient or worker can be tested. In addition, some states limit HIV testing to approved or certified laboratories, often a state laboratory.

D. ACCESS TO INFORMATION REGARDING INFECTIOUS DISEASES OR CONTACT

The matrices that cover confidentiality and worker notification is separated into three broad categories. First, confidentiality requirements may specifically cover information related to required notification or workplace exposures and contacts. The safeguards may be directed at the information itself, the exposure/contact incident report or the test results. Second, worker notification laws include penalties for breach of confidentiality -- these may be civil or criminal penalties, licensure sanctions or dismissal from employment. Third, separate provisions in other sections of the law or in other legislation may apply to worker notification. These confidentiality safeguards may be directed broadly at sexually transmitted diseases (STDs) and infectious diseases, may be AIDS/HIV specific, or may be related to the management of public health records or medical information.

E. MANDATES TO USE UNIVERSAL INFECTION CONTROL PRECAUTIONS

The categories in these matrices relate to required education for, or specific mandates to use, infection control procedures. Provisions mandating worker education or information are designated

by an "E" on the matrices and provisions that require following or using special infection control guidelines are designated by a "U" on the matrices. A state may go beyond these requirements and mandate that: 1) regulations be developed to correspond to the Occupational Safety and Health Administration (OSHA) and Center for Disease Control (CDC) guidelines; 2) certain disinfection procedures be followed; and 3) appropriate supplies be made available to workers.

III. SUMMARY AND FINDINGS

A. REQUIRED NOTIFICATION

A review of laws passed since 1983 shows that, by 1988, HIV had become the most common disease triggering notification, with at least 30 states designating exposure to HIV a notifiable condition. Often, required notification concerning HIV or AIDS is included with other provisions concerning contagious/communicable or infectious diseases. As increasing number of states have also changed the process by which certain diseases are classified as "notifiable". The new amendments often allow state health departments to designate which diseases are notifiable through the rule-making process instead of having the list specified by the state legislature. This allows public health officials to react immediately to a new disease, without waiting for legislative actions. (See Exhibit 3.)

Must an exposure incident occur before a worker or individual is notified? Under some 1988 state laws, and even more frequently in earlier legislation, an exposure is not necessary before a worker must be notified. (See Exhibit 4.) Usually, these mandates involve notifying workers who transport a corpse, as with legislation in New Jersey and Virginia, or may include any contact with a HIV-infected body, as in Arizona. In addition, the need to make treatment decisions has led an increasing number of states to adopt "discretionary disclosure" provisions. Often they allow anyone with a medical need to know or anyone who must manage a patient appropriately to have access to HIV results. There is one state that gives patients the responsibility of notifying health care workers of the HIV status before any contact takes place -- Missouri mandates that an HIV positive patient must tell a health care worker of their status before receiving care.

There is a growing trend, however, toward state mandates that link notification to an exposure incident. The most controversial part of this mandate is defining what constitutes a "significant"

EXHIBIT 3

REQUIRED NOTIFICATION -- DISEASES THAT TRIGGER NOTIFICATION --

RELATED LAWS IN AT LEAST 30 STATES

TYPES OF DISEASE	
HIV/AIDS	Most common focus of new laws; often included with other disease categories
Contagious/ Communicable	Recent amendments to specify disease in state regulations; more common in earlier legislation
Hepatitis B	At least 6 states specify/ otherwise covered by other categories
Infectious	Less common in 1988; more common in earlier years
Sexually Transmitted Disease (STD)	Rare

Source:

AIDS Policy Center, Intergovernmental Health Policy Project
The George Washington University, January, 1989

EXHIBIT 4

REQUIRED NOTIFICATION

-- CIRCUMSTANCES REQUIRING NOTIFICATION --

A. INCIDENT OR EXPOSURE NOT NECESSARY

Transporting Corpse/Body (NJ/VA)

Any contact (AZ)

Discretionary Disclosure

"Anyone with a medical need to know" (GA)
For patient management

Mandatory Disclosure

Anyone who knows they are positive must
tell health care provider before receiving
services (MO)

Source: AIDS Policy Center, Intergovernmental Health Policy Project
The George Washington University, January, 1989

exposure. By 1988, at least 16 states alluded to a definition of exposure by stating that the "exposure" must be "capable of causing or transmitting infection". Prior to 1988, only California, Florida, and Texas did so. Other jurisdictions leave the particular exposure circumstances to be defined by regulation. Prior to 1988, four state laws left significant exposure to be defined by regulation; in 1988 at least ten state laws indicated that department of health agencies should make this determination.

Other states, like Massachusetts, have statutorily specified certain circumstances as being significant, e.g., "mouth-to-mouth resuscitation" or "needlesticks", while other states use very broad language. For example, in Illinois, paramedics may be notified if a patient is diagnosed with HIV and a "reasonable possibility exists" that emergency personnel "may have been exposed" to the patient's blood or body fluid. In South Carolina, a health care professional must have a "reasonable cause to believe" that the exposure will cause infection. And in Missouri, health care workers involved in an incident that results in a "possible exposure to HIV" must have a "probably cause to believe" that the incident "may have cause infection". (See Exhibit 5.)

Alternatively, the determination of whether an exposure/contact is significant may be made by a physician, public health official, or other health care professional acting as the designee of a facility. A few states, like Rhode Island, have mandated that health care facilities establish a committee to make determinations about a significant exposure.

In at least fourteen states that require notification, or about half of the total state, the patient must be confirmed HIV positive or subsequently diagnosed before the worker can be notified. States differ regarding how such a diagnosis must be made. Some state provisions are nonspecific. Mississippi's law declares that the physician must simply "know" that the patient has a condition; Tennessee's law permits notification for any known or "suspected" disease, implying that confirmation is not necessary. Other states are more specific. Maryland's law mandates that diagnosis be made while providing services during the patient's hospital stay. Indiana, for example, adds a qualifier that the subsequent diagnosis must be made within 72 hours. At least 11 states require testing of the source patient, and still many state laws are unclear as to how the diagnosis is made.

EXHIBIT 5

REQUIRED NOTIFICATION -- CIRCUMSTANCES REQUIRING NOTIFICATION --

B. INCIDENT OR EXPOSURE NECESSARY

UNCLEAR CIRCUMSTANCES VAGUE WORDING

In several states, the circumstances are unclear (not linked to concept of "significant exposure" or "capability of causing or transmitting infection")

"Have probable cause to believe that incident may have caused" infection (MO)

"After possible exposure" (WV)

TO BE DEFINED BY REGULATION

At least 16 states specify incident must be capable of causing or transmitting infection

At least 12 will define disease and significant exposure by regulation

PROCESS FOR DETERMINATION

At least 16 states require health care professionals or public health official to decide if significant

Most common "facility designee"

PATIENT MUST BE CONFIRMED OR SUBSEQUENTLY DIAGNOSED

Required in at least 14 states (about half of those that require notification)

States differ in how diagnosis must be made:

- unclear
 - upon providing services (MD)
 - within time period (IN)
 - requiring testing (at least 11 states)
-

Source:

AIDS Policy Center, Intergovernmental Health Policy Project
The George Washington University, January, 1989

B. TYPES OF PERSONNEL NOTIFIED

For the full time period under review, emergency medical personnel, including paramedics and EMTs, were the target of most required notification laws. Fire-fighters were a close second. While funeral personnel were the target of many 1986 and 1987 statutes, law enforcement officers and "health care providers" were added in 1988 statutes. Corrections officials, personnel working in state institutions and certain school officials or staff were among those mentioned in a few, but a growing number, of state laws. Generally, the latter group has been permitted access to information necessary to manage the patient, make appropriate placements, or take appropriate infection control precautions. Laboratory technicians were mentioned in at least five states. (See Exhibit 6.)

There are several procedural questions that are important when notifying workers. The issue of who notifies the worker is important because of implied liability. States like Florida and Illinois have added required notification provisions to their Hospital Licensing Codes. This places significant responsibility on receiving facilities, while, on the other hand, facilities are protected from civil or criminal liability by complying with the notification guidelines established by law. At least 19 states have mandated in their laws that the facility designee or physician are required to make the notification.

The question of who is directly notified of test results under required notification laws is equally split between the worker and the employer. In at least four states, both the worker and the employer are notified. Michigan allows the "chief elected official", as an employer of the local jurisdiction employing the exposed emergency worker, to be notified.

Confidentiality is at issue in the question of who is to be notified directly of test results or disease status. The employee's, and possibly the patient's, privacy may be more readily protected if workers are directly told the information. On the other hand, liability and workmen's compensation may be more easily addressed, if the employer is notified of results.

Only a few states legislatively mandate that a report documenting the exposure incident be filed as part of the notification process. (See Exhibit 7.) Most often the report is filed with a facility designee or physician, as is the case for at least six states. Other mandated procedures include making

EXHIBIT 6

WHO IS NOTIFIED

WHO ¹		REASON ²	
MOST FREQUENTLY NOTIFIED		Notification/ Management	Exposure
	1) Emergency Medical Personnel _____	_____	X
	2) Firefighters _____	_____	X
	3) Health Care Providers _____	X _____	X
	4) Funeral Directors _____ Embalmers _____ Transporters _____ Law Enforcement Officers _____	X _____	X
LESS FREQUENTLY NOTIFIED	5) Corrections Officials _____	X _____	X
	6) Institutional Personnel _____	X _____	X
	7) Lab technicians _____	X _____	
	8) School Personnel _____	X _____	

¹ Order of popularity addressed by states
² Most common reasons listed to notify

Source: AIDS Policy Center, Intergovernmental Health Policy Project
 The George Washington University, January, 1989

EXHIBIT 7

REQUIRED NOTIFICATION -- NOTIFICATION PROCEDURES AFTER EXPOSURE INCIDENT --

INCIDENT REPORTS FILED

Few states specify report necessary/
or have related procedures

WHO IS NOTIFIED DIRECTLY

Split between (1) worker and (2) employer
-- tell worker alone: protects confidentiality

-- tell employer: for liability and workman's
compensation

**IN WRITING
?**

A few states
Most leave method to be determined by regulations or
leave unspecified

TIME PERIOD

At least 10 states specify. Generally, ASAP

**PENALTIES FOR FAILURE
TO NOTIFY**

At least: 4 states criminal penalties (GA, ID, IN, MS)
3 states civil penalties (IL, NJ, RI)

**SUGGEST/RECOMMEND
MEDICAL FOLLOW-UP**

At least 9 states suggest worker receive appropriate
services or counseling

Source: AIDS Policy Center, Intergovernmental Health Policy Project
The George Washington University, January, 1989

the notification: a) in writing -- a total of nine states, with only Louisiana and New Jersey prior to 1989 and, b) within a certain time limit, usually as soon as possible or 48 to 72 hours post-exposure, as is the case in at least ten states. Finally, most worker notification laws mandate that the exposed worker must be notified only if the source patient tests HIV-positive.

As part of the notification process, at least ten states make a general reference to medical "follow-up" or suggest that the exposed worker obtain counseling or treatment. Finally, a few states, (Maryland, North Dakota, Rhode Island, Utah) formally amended their statutes to ensure that a communicable disease -- or AIDS, in particular -- acquired from an occupational exposure is covered as a disability.

Either criminal or civil penalties may result from failure to notify. The types of penalties levied is evenly divided between criminal and civil measures, with a least five different states in each category.

C. TESTING AFTER EXPOSURE/CONTACT

Required testing is perhaps one of the most controversial issues involving required notification. In some instances, required notification is resulting in required testing. Between 1983-87, only Florida permitted and Iowa (in correction facilities), Texas and Wisconsin required source patients to be tested for HIV infection. By 1988, ten additional states passed legislation permitting or requiring source patients to be tested after a possible occupational HIV exposure. By comparison, during the same period of time, only two states, Louisiana and Utah, have passed laws requiring source patients to be tested for the Hepatitis B virus.

Procedures regarding testing after an exposure are not always outlined in state laws. For example, a few states require that the exposure/contact incident must be reported before testing can occur, while other states require that the incident must be found to have caused "significant exposure".

Only a few states link testing the source patient to testing the exposed worker. In Maine and Rhode Island, testing the worker is a prerequisite for testing the source patient. In Utah, exposed workers must be tested in order to claim workmen's compensation and Indiana's law asks only that the worker must be referred for testing. Only Maine statutorily requires that the exposed worker be counseled, while Arizona and Indiana require that the worker be referred for counseling. (Other states cover worker counseling in guidelines or regulations.)

Most often in state laws, testing is requested by a facility designee. (See Exhibit 8.) However, requests for the test can be made by the employer (the case in Iowa in a correctional institution), by the exposed worker (the case for four states), by patients (in Rhode Island and West Virginia), and even by a good Samaritan (in West Virginia). Some states add a procedural step, whereby a facility designee, physician, or public health official must determine that the test is necessary (i.e., a significant exposure occurred) before the testing request can be made.

Informed consent is not a universal prerequisite for testing source patients. Although fourteen states now require or permit source patients to be tested for HIV, only six states mandate that patient consent must be sought before such testing can occur. In Florida, Louisiana, Maine, Rhode Island, Utah, and Washington consent must be obtained from the source patient before an HIV test can be performed after an exposure. The remaining eight states either have not addressed the issue or require testing without the consent of the source patient.

However, some exposed workers fear that source patients may refuse to be tested if given an opportunity to consent. At least four states (Florida, Maine, Rhode Island, and Washington) have developed statutory contingencies for managing patient refusals. They established a legal process that requires a court order be obtained, if a patient refuses HIV testing. Louisiana and Rhode Island waive a facility's need to get patient consent, if a blood sample from the patient already exists. In Utah, the source patient must be told of the right to refuse the test.

In a similar manner, it is not a universal requirement to notify the source patient of test results, with only six states requiring such notification. Indeed, Maine's law allows the patient to refuse to be told the test results, on the theory that if a patient is tested without consent (i.e., with a court order), they should have the right to refuse to learn of their test results.

In terms of other testing requirements, four states, Iowa, Oklahoma, Utah, and Washington) require that the tests be performed by approved laboratories. Utah asks that only state laboratories be used for HIV testing, while Iowa provides for use of either state or other approved laboratories for tests. Oklahoma's law for licensing laboratories has a provision to assess a penalty against any unlicensed laboratory performing HIV tests.

EXHIBIT 8

TESTING AFTER EXPOSURE

Availability of Testing

A statutory option in at least 11 states, with most of these states requiring a predetermination of "significant exposure"

Who Requests Testing

Direct request through facility designees

Worker/health care provider may request (in 5 states)

Patients may request (2 states)
- other patients (RI)
- anyone exposed (WV)

Other - Good Samaritan (WV)

Consent For Testing

A few states mandate patient consent before testing (FL, LA, ME, RI, VT, WA)
Waived if blood sample already exists (LA, RI)

Court Orders

Alternative: when patient consent not given (4 states)

Source Patient Counseling

Almost universal requirement

Patient Notification

Not a universal requirement

Patient may refuse to be told test results (ME)

Testing Workers

Currently rare

Prerequisite for testing patient (ME, RI)

Prerequisite for employee benefits (UT)

Payment for Source Patient Test

Source patients are not required to pay

State pays for test (FL, MI, RI)

Health facility where exposure occurred pays for test (HI, ME, UT)

Source: AIDS Policy Center, Intergovernmental Health Policy Project
The George Washington University, January, 1989

Payment of the cost of the source patient's test is not always specified in the laws. Only six states stipulate who pays for testing the patient -- Florida, Michigan, and Rhode Island have the state as the payor and Hawaii, Maine and Utah ask that the health facility (or hospital in the case of Maine) where the exposure occurred to make payment for the test. The three states that require testing of the exposed worker varies as to who should pay for the worker's test. Maine's law has the health facility (i.e., hospital) as the payor, Rhode Island has the state as the payor, and Utah has the employer making payment, if the worker requests the test.

D. CONFIDENTIALITY AND WORKER NOTIFICATION

Few states have developed a specific and detailed confidentiality standards for information related to worker notification. While at least 14 states have developed confidentiality requirements for managing information related to worker notification, most provisions contain only general statements such as "records must be handled confidentially." Commonly, such confidentiality provisions pertain to the required notification procedures and information. Some, but not all, of these same state laws contain additional safeguards for managing testing-after-exposure information and incident reports. The most specific confidentiality requirements are contained in those few state laws that require court order to be issued before testing occurs. (See Exhibit 9.)

Penalties for breach of confidential data involving workplace exposure or contact have been established in a few states. Criminal penalties are imposed in Alabama, Georgia, Indiana, and Utah; civil penalties are levied in four other states. Other state penalties take the form of licensure sanctions, (i.e. Maine and Virginia) and dismissal from employment (i.e., Indiana).

For a large number of states, the issue of confidentiality and worker notification is addressed by broader confidentiality protections that may apply in these situations. Usually these broader confidentiality provisions are HIV/AIDS specific or covered under STD/infectious diseases laws and specify to whom HIV test results or disease-related information may be given. The disclosure laws also range from being narrowly to broadly defined in terms of who may have access to personal medical information and who has a medical need to know.

EXHIBIT 9

SPECIFIC CONFIDENTIALITY FOR WORKER NOTIFICATION/PROCEDURES

- o Mainly general statements
"Records must be handled confidentially"
- o Most specific requirements are contained in court order procedures
- o Specific penalties levied by a few states:
 - criminal penalties (AL,GA,UT)
 - licensure sanctions (VA)
 - civil penalties (4 states)
- o More commonly covered under other confidentiality provisions for:
 - AIDS/HIV
 - STD/infectious diseases
- o Evenly split whether patient's name must be withheld or must protect name of the worker

Source: AIDS Policy Center, Intergovernmental Health Policy Project
The George Washington University, January, 1989

E. UNIVERSAL PRECAUTIONS

Using universal precautions decreases the need for workers to be notified or special conditions to ensure their safety. Only a few states have statutorily mandated the use of universal precautions and infection control procedures. It is more common for states to have enacted laws requiring workers to be educated and trained regarding AIDS/HIV infection. (See Exhibit 10 and 11.) Most states will rely on administrative regulations, instead of legislation, to enforce the OSHA and CDC standards.

As of 1988, at least nine states have legislatively mandated that some workers follow various forms of universal precautions for HIV infection control. In Indiana and Rhode Island (for public sector employees), the law mandates that state regulations correspond to CDC and OSHA guidelines. Iowa, in a 1987 law, mandates conforming to CDC and OSHA guidelines by workers in state correctional institutions. Rhode Island also has a law which targets tatoo parlors for compliance with CDC and OSHA standards.

Some states statutorily require that disinfection procedures must be followed, i.e., Indiana, Illinois (in 1987), Florida, and Iowa (for emergency medical services personnel only).² Kentucky's law stipulates that failure to notify the worker of the possible exposure/contact does not exempt the worker from taking precautions. This is an important provision that ensures that certain workers (e.g., funeral personnel) continue to have an incentive for following universal precautions and accept the legal responsibility, especially if they want to be notified before coming in contact with a patient with an infectious or communicable disease.

Another issue is state requirements to use special equipment and to make appropriate supplies available. In Indiana, health care facilities must provide containers for sharp objects and personal protective equipment. In 1987 legislation, California legislated that law enforcement agencies are required to provide peace officers with a portable manual mask and airway assembly for use when

² For example, Indiana's law addressed the "treatment of infectious waste", such as hypodermic or suture needles, syringes, scalpel blades, etc. Effective treatment may include: incineration, steam sterilization, chemical disinfection, thermal inactivation, or irradiation.

EXHIBIT 10

STATUTORY MANDATES FOR UNIVERSAL PRECAUTIONS

A FEW STATES HAVE MANDATED THROUGH NEW LAWS:

- o Use of universal/infection precautions (FL,IL,IN)
 - Correctional institutions (IA)
 - Tatoo parlors (RI)
 - Failure to notify does not exempt from taking precautions (KY)

- o Appropriate supplies must be made available (CA,IN)
(OK - Resolution only)

- o Facilities may be compensated for any increased cost (ME)

- o Penalties for failure to take precautions
 - Licensure sanctions (FL,IN)

Source: AIDS Policy Center, Intergovernmental Health Policy Project
The George Washington University, January, 1989

EXHIBIT 11

STATUTORY MANDATES FOR EDUCATION

- o The most common statutory mandate is to educate "health care providers". (Most state laws imply or do not specifically mandate training for infection control.)
- o Few states extend mandate beyond health care workers
 - correctional institution (WA,CA)
 - state institutions
- o A few states link education to licensure
 - Washington
 - Florida

Source: AIDS Policy Center, Intergovernmental Health Policy Project
The George Washington University, January, 1989

applying CPR. Only Maine has provisions for reimbursing or compensating facilities for additional costs of implementing infection control standards and purchasing appropriate equipment.

Prior to 1988, California, Colorado, Illinois, Maryland, and New Jersey had already passed legislation mandating certain workers to be educated and trained in infection disease control. Again, the mandate was targeted to certain types of personnel, usually physicians, nurses, dentists, funeral personnel, and law enforcement officers acting as first responders. Those states which mandated education/training in 1988 include: California (extending the mandate to cover additional types of health care workers), Florida, Iowa, Missouri, Nebraska, Oklahoma, and Washington. As early as 1983, New York legislated general AIDS education for health care workers and New Hampshire did similarly with 1988 legislation. Few states extend the education mandate beyond health care workers -- for example, California and Washington do required education for personnel in correctional institutions.

Several states have also legislated penalties for failure to follow infection control standards. Kansas has civil penalties, while Florida, and Indiana have licensure sanctions resulting from failure to follow standards. Only two states, Florida and Washington, require all health care professionals to receive AIDS-related education and training as a prerequisite for licensure. Finally, at least eight states have mandated that laboratories meet certain quality assurance standards in order to perform HIV tests.

IV. CONCLUSIONS AND CONSIDERATIONS

Required notification and implementation of universal precautions are visible and, sometimes, highly controversial issues. Often these issues go beyond the simple premise that workers need information to make decisions and to provide care. Indeed, some issues ago quickly to the core of the bioethical debate. They involve the rights of patients, the responsibilities of health care workers to provide care, and, of course, their shared right to a safe work environment.

Several important trends emerge from our review of state legislation on worker notification:

1. While an increasing number of states have laws requiring workers to be notified of possible exposure to certain diseases and have expanded the categories of workers covered, many state laws still cover only certain personnel categories. EMTs, firefighters and funeral directors have been the focus of most laws. More recently, law enforcement officers and personnel in prisons and other correctional facilities have been the focus of a few, but growing number of, jurisdictions.
2. The trend is for states to link worker notification to significant exposure which has resulted in expanding the number of covered workers, especially those in health-related professions. Earlier laws linked notification to transporting a corpse or emergency patient or to any body contact. A corollary trend is to specify an incident, such as a needlestick, or to define significant exposure by regulation.
3. Greater reliance has been placed on the role of the "facility designee" in both the determination of significant exposure and notification process. Placing such responsibility with facilities and their personnel increases liability questions, which few states have addressed.
4. Less than one third of the states requiring notification have criminal or civil penalties for failure to notify.

5. While at least 11 states require or permit the source patient to be tested, only six states mandate patient consent before HIV testing and only four states use the alternative of a court order, if the patient does not voluntarily consent to testing.
6. Even though Hepatitis B is preventable with a vaccine, has led to over 200 deaths to exposed health care workers and is highly contagious and easily communicable through blood and sex, it is the focus of limited state laws. HIV infection has captured the attention of more legislatures, illustrating influences of media and the continuing fear among the public.

The following concerns are offered for consideration:

1. Universal precautions may be undermined by some required notification laws. For instance, some states require certain types of personnel to be notified, in writing, of specific diseases and precautions. Such mandates, especially for emergency medical services personnel and laboratory technicians, may actually work against the principles underlying universal precautions.
2. Required notification can lead to involuntary testing. Illinois became the first state to amend its original informed consent provisions for HIV infection. Its 1988 amendments now allow source patients to be tested without consent after an exposure. Also, Florida, Maine, Utah and Rhode Island have begun to address the area of required testing after an exposure by adding due process and court order provisions to their statutes.
3. The patient's concerns may be overlooked. For example, does a patient have a right to request that a health care worker be tested after an exposure? Maine's law does permit patients to have other patients tested if they are exposed to their blood. However, the patient could not ask a health care worker to be tested in the same situation. West Virginia is one state where this may be possible, since persons exposed to blood and body fluids when receiving care have rights similar to those of the employee.
4. There is a great need to clarify "who has a medical need to know" and what

constitutes "a significant exposure". Without clear definitions, many laws could permit almost anyone working in a health care setting to be notified of test results or to require testing of patients without their consent.

5. Information is not always available because of time, technology and confidentiality. Thus, policy and legal responses demand flexibility as science and technology develop.
6. Few states are evaluating the impact of required notification (and testing laws). Are they effective? How many workers have been notified through the process and how many have, in fact, been exposed to an HIV positive patient? How many source patients are being tested as a result of the legislation?

WORKER NOTIFICATION

	EXPOSURE TO:		CIRCUMSTANCES REQUIRING NOTIFICATION*										TYPES OF PERSONNEL TO BE NOTIFIED**											
	DISEASE		GENERAL					SIGNIFICANT EXPOSURE/CONTACT					EMERGENCY CARE PERSONNEL/FIRST RESPONDERS					OTHERS						
	INFECTIOUS	CONTAGIOUS/ COMMUNICABLE	HIV / AIDS	HEPATITIS B	SEXUALLY TRANSMITTED DISEASE	ANY CONTACT/POSSIBLE EXPOSURE	BLOOD & BODY FLUID EXPOSURE	TRANSPORTING OR HANDLING BODY	CAPABLE OF CAUSING INFECTION	LAW	REGULATION	DEFINED BY: FACILITY DESIGNEE /PHYSICIAN	DETERMINATION MADE BY: PUBLIC HEALTH OFFICIAL	OTHER	FIREFIGHTERS	LAW ENFORCEMENT OFFICERS	PARAMEDICS/ EMT'S	OTHER	HEALTH CARE PROVIDERS	CORRECTIONS PERSONNEL	OTHER STATE INSTITUTIONAL WORKERS	TRANSPORTERS FOR FUNERAL HOMES	FUNERAL DIRECTORS / EMBALMERS	LABORATORY TECHNICIANS
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ALASKA																								
ARIZONA																								
ARKANSAS																								
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WYOMING																								

* Would generally also refer to circumstances involving testing, if required or permitted in state

** Would generally also refer to types of personnel who may request testing after exposure, if required or permitted in state

WORKER NOTIFICATION PROCEDURES

	DOCUMENTING THE INCIDENT						MANDATORY NOTIFICATION PROCEDURES						OTHER REQUIREMENTS			PENALTIES								
	REPORT FILED WITH:						NOTIFICATION MADE BY		NOTIFICATION MADE TO		OTHER													
	REPORT MUST BE FILED	FACILITY DESIGNED/PHYSICIAN	EMPLOYER	STATE DEPARTMENT OF HEALTH	LOCAL HEALTH OFFICIAL	OTHER	FACILITY PHYSICIAN	PROVIDERS HOSPITAL/OTHER FACILITY	PUBLIC HEALTH OFFICIAL	OTHER	WORKER	EMPLOYER	PROVIDERS HOSPITAL/OTHER FACILITY	OTHER	EXPOSED WORKER NOTIFIED ONLY IF SOURCE PATIENT IS POSITIVE *	NOTIFICATION MUST BE MADE WITHIN CERTAIN TIME LIMIT	NOTIFICATION MUST BE MADE IN WRITING	MUST BE TOLD WHAT PRECAUTIONS TO TAKE	ACQUIESCE, SUGGESTS MEDICAL FOLLOWUP	WORKER MUST BE COUNSELLED	WORKER MUST BE REFERRED FOR TESTING	ON THE JOB EXPOSURE IS CONSIDERED A DISABILITY	CIVIL PENALTIES FOR FAILURE TO COVERED	CIVIL PENALTIES FOR FAILURE TO NOTIFY
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* Or only if "subsequently diagnosed"

TESTING AFTER EXPOSURE/CONTACT

	WHO REQUESTS TEST		WHO DETERMINES TEST IS NECESSARY		TEST REQUIREMENTS/PROCEDURES														WHO PAYS FOR TESTS					
	EMPLOYER	EXPOSED WORKER	PATIENT	OTHER	FACILITY DESIGNEE/PHYSICIAN	PUBLIC HEALTH OFFICIAL	OTHER	SOURCE PATIENT MUST BE TESTED AFTER EXPOSURE	INCIDENT MUST BE REPORTED BEFORE TESTING	INCIDENT MUST BE FOUND TO HAVE CAUSED TO HAVE EXPOSURE	EXPOSED WORKER MUST BE TESTED	EXPOSED WORKER MUST BE COUNSELED	SOURCE PATIENT CONSENT MUST BE	SOURCE PATIENT MUST BE COUNSELED	SOURCE PATIENT OR RESULTS NOTIFIED	COURT ORDER REQUIRED TO SOURCE TO TEST	SOURCE PATIENTS BE TOLD ABOUT RIGHT TO REFUSE TEST	TEST MUST BE PERFORMED BY APPROVED LAB	STATE (PUBLIC)	HEALTH FACILITY	SOURCE PATIENT TEST		EXPOSED WORKER TEST	
																					HEALTH FACILITY	EMPLOYER	HEALTH FACILITY	STATE (PUBLIC)
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* Exposed personnel may make written request for source patient's HIV test results.

ACCESS TO INFORMATION RE: INFECTIOUS DISEASE EXPOSURE/CONTACT

	SPECIFIC CONFIDENTIALITY REQUIREMENTS FOR WORKPLACE EXPOSURES/CONTACTS				PENALTIES FOR BREACH OF CONFIDENTIAL DATA RE: WORKPLACE EXPOSURES/CONTACTS				OTHER CONFIDENTIALITY* PROVISIONS THAT MAY APPLY			
	REQUIRED NOTIFICATION PROCEDURES/ INFORMATION	TESTING INFORMATION AFTER EXPOSURE	INCIDENT REPORT(S)	OTHER	CIVIL	CRIMINAL	LICENSE/SANCTIONS	DISMISSAL FROM EMPLOYMENT	HIV/AIDS SPECIFIC	PUBLIC HEALTH RECORDS	MEDICAL INFORMATION	STD/INFECTIOUS DISEASES
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* General confidentiality laws and amendments since 1983

MANDATES TO USE UNIVERSAL INFECTION CONTROL PRECAUTIONS

WHO MUST USE/OR BE EDUCATED RE: GUIDELINES															WHAT MANDATE CONTAINS					PENALTIES FOR FAILURE TO FOLLOW STANDARDS		OTHER RELATED PROVISIONS		
EMERGENCY CARE/ FIRST RESPONDERS															APPROPRIATE SUPPLIES MUST BE AVAILABLE									
PHYSICIANS/NURSES	DENTISTS	FIREFIGHTERS	LAW ENFORCEMENT/OFFICERS	PARAMEDICS/EMTS	OTHERS	OTHER HEALTH CARE PROVIDERS	FUNERAL PERSONNEL	LABORATORY WORKERS	HOUSEKEEPING	CORRECTIONS PERSONNEL	OTHER STATE INSTITUTIONAL WORKERS	OTHER	MUST DEVELOP REGULATIONS THAT CORRESPOND TO OSHA/CDC GUIDELINES	MUST FOLLOW DISINFECTION PROCEDURES	CONTAINERS FOR SHARPS	GLOVES	OTHER PERSONAL PROTECTIVE EQUIPMENT	FAILURE TO NOTIFY DOES NOT EXEMPT PERSON FROM TAKING PRECAUTIONS	CIVIL PENALTIES	LICENSURE REVOCATION	DISMISSAL OF EMPLOYEE	RULES FOR QA IN LABS	PERFORMING TESTS	FACILITIES MAY BE REIMBURSED OR COMPENSATED FOR IMPLEMENTING FOR STANDARDS
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FOOTNOTES FOR MATRICES 1.1 TO 1.5

1. Any medical condition requiring special precautions by any health care providers.
2. May be notified only if necessary to treat or manage patient.
3. Notification only in case of death.
4. A physician may tell the positive test result to anyone who may come in contact with blood or body fluids.
5. Only for exposures in health care facility, a three-person evaluation group decides. In non-health care settings, there is no determination process.
- 5a. By "health care professional".
- 5b. By "infectious disease liaison officer for the transporting EMS agency."
6. Need only have probable cause to believe that incident may have caused infection.
7. Confirming information must be obtained as a result of services provided to individual during visit.
8. Offers liability protection for failure to warn, if workers fail to file report or employer fails to notify worker.
9. Testing may be required.
10. Consent not necessary, if blood sample exits.
11. Court order, only if consent is refused.
12. If the worker requests the test.
13. Rhode Island differentiates testing and exposure procedures in health care versus non-health care settings. Mandatory requirement for informed consent, and court orders only apply in a health care facility.
14. Applies to anyone exposed in performance of occupation.
15. Only in health care settings.
16. Only if worker wants to claim benefits and must be tested at beginning of employment.
17. Includes Good Samaritans.
18. "All health care workers" are to be educated and trained.
19. General education must be provided.
20. Resolution strongly encourages.
21. For tattoo parlors. Pertains to both Hepatitis B and HIV.

22. Calls for rules and regulations regarding precautionary procedures for emergency medical service personnel.
23. For laboratory setting only.
24. Must complete education/training programs for license and license renewal.
25. The law states: "All reasonable costs incurred by a hospital resulting from conforming with the U.S. Department of Health and Human Services, Public Health Service, Center for Disease Control guideline; requirements of Joint Commission on Accreditation of Health Care Organizations; OSHA standards; and federal, state and local laws, rules and regulations relating to the disease of AIDS."

WORKER NOTIFICATION

	EXPOSURE TO:				CIRCUMSTANCES REQUIRING NOTIFICATION*										TYPES OF PERSONNEL TO BE NOTIFIED **										
	DISEASE				GENERAL				SIGNIFICANT EXPOSURE/CONTACT						EMERGENCY CARE PERSONNEL/FIRST RESPONDERS					OTHERS					
									DEFINED BY:		DETERMINATION MADE BY:														
	INFECTIOUS	CONTAGIOUS/ COMMUNICABLE	HIV / AIDS	HEPATITIS B	SEXUALLY TRANSMITTED DISEASE	ANY CONTACT/POSSIBLE EXPOSURE	BLOOD & BODY FLUID EXPOSURE	TRANSPORTING OR HANDLING BODY	CAPABLE OF CAUSING INFECTION	LAW	REGULATION	FACILITY DESIGNEE /PHYSICIAN	PUBLIC HEALTH OFFICIAL	OTHER											
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* Would generally also refer to circumstances involving testing, if required or permitted in state

** Would generally also refer to types of personnel who may request testing after exposure, if required or permitted in state

WORKER NOTIFICATION PROCEDURES

	DOCUMENTING THE INCIDENT					MANDATORY NOTIFICATION PROCEDURES										OTHER REQUIREMENTS	PENALTIES							
	REPORT FILED WITH:					NOTIFICATION MADE BY		NOTIFICATION MADE TO		OTHER														
	REPORT MUST BE FILED	FACILITY OR SOURCE/ PHYSICIAN	EMPLOYER	STATE DEPARTMENT OF HEALTH	LOCAL HEALTH OFFICIAL	OTHER	FACILITY DESIGNATED PHYSICIAN	PROVIDER'S HOSPITAL/ OTHER FACILITY	PUBLIC HEALTH OFFICIAL	OTHER	WORKER	EMPLOYER	PROVIDER'S HOSPITAL/ OTHER FACILITY	OTHER	EXPOSED WORKER NOTIFIED ONLY IF SOURCE PATIENT IS POSITIVE *	NOTIFICATION MUST BE MADE WITHIN CERTAIN TIME LIMIT	NOTIFICATION MUST BE MADE IN WRITING	MUST BE TOLD WHAT PRECAUTIONS TO TAKE	REQUEST SUGGESTS MEDICAL FOLLOWUP	WORKER MUST BE COUNSELLED	WORKER MUST BE REFERRED FOR TESTING	ON THE JOB EXPOSURE IS CONSIDERED A DISABILITY	CIVIL PENALTIES FOR FAILURE TO NOTIFY	CRIMINAL PENALTIES FOR FAILURE TO NOTIFY
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* Or only if "subsequently diagnosed"

TESTING AFTER EXPOSURE/CONTACT

	WHO REQUESTS TEST	WHO DETERMINES TEST IS NECESSARY	TEST REQUIREMENTS/PROCEDURES																WHO PAYS FOR TESTS							
			EMPLOYER	EXPOSED WORKER	PATIENT	OTHER	FACILITY DESIGNEE/ PHYSICIAN	PUBLIC HEALTH OFFICIAL	OTHER	SOURCE PATIENT MUST BE TESTED AFTER EXPOSURE	INCIDENT MUST BE REPORTED BEFORE TESTING	INCIDENT MUST BE FOUND TO HAVE CAUSED SIGNIFICANT EXPOSURE	EXPOSED WORKER MUST BE TESTED	EXPOSED WORKER MUST BE COUNSELED	SOURCE PATIENT COUNSELLED	SOURCE PATIENT MUST BE COUNSELED	SOURCE PATIENT OF RES. NOTIFIED	COURT ORDER REQUIRED TO SOURCE TO TEST	SOURCE PATIENTS TO BE TOLD ABOUT RIGHT TO REFUSE TEST	TEST MUST BE APPROVED BY LAB	STATE (PUBLIC)	HEALTH FACILITY	EMPLOYER	HEALTH FACILITY	STATE (PUBLIC)	
																										SOURCE PATIENT TEST
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WYOMING																										



ACCESS TO INFORMATION RE: INFECTIOUS DISEASE EXPOSURE/CONTACT

	SPECIFIC CONFIDENTIALITY REQUIREMENTS FOR WORKPLACE EXPOSURES/CONTACTS				PENALTIES FOR BREACH OF CONFIDENTIAL DATA RE: WORKPLACE EXPOSURES/CONTACTS				OTHER CONFIDENTIALITY* PROVISIONS THAT MAY APPLY			
	REQUIRED NOTIFICATION PROCEDURES/ INFORMATION	TESTING INFORMATION AFTER EXPOSURE	INCIDENT REPORT(S)	OTHER	CIVIL	CRIMINAL	LICENSE/SANCTIONS	DISMISSAL FROM EMPLOYMENT	HIV/AIDS SPECIFIC	PUBLIC HEALTH RECORDS	MEDICAL INFORMATION	STD/INFECTIOUS DISEASES
ALABAMA												
ALASKA												
ARIZONA												
ARKANSAS												
CALIFORNIA												
COLORADO												
CONNECTICUT												
DELAWARE												
DISTRICT OF COLUMBIA												
FLORIDA												
GEORGIA												
HAWAII												
IDAHO												
ILLINOIS												
INDIANA												
IOWA												
KANSAS												
KENTUCKY												
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VERMONT												
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WEST VIRGINIA												
WISCONSIN												
WYOMING												

* See Matrix 1.4

MANDATES TO USE UNIVERSAL INFECTION CONTROL PRECAUTIONS

WHO MUST USE/OR BE EDUCATED RE: GUIDELINES															WHAT MANDATE CONTAINS					PENALTIES FOR FAILURE TO FOLLOW STANDARDS		OTHER RELATED PROVISIONS																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																						
	EMERGENCY CARE/ FIRST RESPONDERS										APPROPRIATE SUPPLIES MUST BE AVAILABLE					CIVIL PENALTIES	LICENSE REVOCATION	DISMISSAL OF EMPLOYEE	RULES FOR QA IN LABS	FACILITIES MAY BE REIMBURSED OR IMPLEMENTED FOR STANDARDS																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																								
	PHYSICIANS/NURSES	DENTISTS	FIREFIGHTERS	LAW ENFORCEMENT/ OFFICERS	PARAMEDICS/ EMTS	OTHERS	OTHER HEALTH CARE PROVIDERS	FUNERAL PERSONNEL	LABORATORY WORKERS	HOUSEKEEPING	CORRECTIONS PERSONNEL	OTHER STATE INSTITUTIONAL WORKERS	OTHER	MUST DEVELOP REGULATIONS THAT CORRESPOND TO OSHA/CDC GUIDELINES	MUST FOLLOW DISINFECTION PROCEDURES						CONTAINERS FOR SHARPS	GLOVES	OTHER PERSONAL PROTECTIVE EQUIPMENT	FAILURE TO NOTIFY DOES NOT EXEMPT PERSON FROM TAKING PRECAUTIONS																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																				
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 U - Follow/Use
 E - Education required

FOOTNOTES FOR MATRICES 2.1 TO 2.5

1. Allows local health officer to exclude from school a student who has a dangerous, communicable disease transmissible through normal school contacts.
2. Notification in the case of a deceased person may be made by a family member.
3. Notification made by transporter to embalmer.
4. Refers to correctional institutions only.
5. Refers only to handling of corpses.
6. Notification made by transporter to funeral director.
7. Patients may be tested after exposure.
8. Refers to school employees.
9. Refers to school personnel.
10. Refers to general education only.
11. For funeral directors only.

EXAMPLE OF RULES

FLORIDA

The State Health Office of Florida issued a Public Health Advisory for Emergency Medical Service (EMS) Personnel on October 8, 1988. Of particular importance is the definition of "significant exposure", a positive HIV antibody test, and the classification of "risk" associated with suspect HIV exposure.

Significant exposures that could reasonably lead to HIV infection are:

- 1) Exposure to blood through needlesticks, instruments or sharp objects;
- 2) Exposure of non-intact skin to visible blood;
- 3) Exposure of mucus membrane to visible blood.

Positive HIV is confirmed only by two reactive ELISA tests and a positive Western blot and/or IFA test performed in a licensed laboratory.

Classification of risk associated with suspect HIV exposure stresses the lack of a straightforward determination process and uses examples, the role of test results, HIV infection status of the source, current HIV status of persons exposed, followup, and the role of public health officials.

Recommendations:

- 1) EMS personnel must practice universal blood and body fluid precautions for HIV, Hepatitis B Virus (HBV) and other blood-borne pathogens.
- 2) EMS personnel should wash, immediately and thoroughly, hands and other skin surfaces that are contaminated.
- 3) Within five-days following a significant exposure, employee may voluntarily submit to a baseline HIV antibody blood test with followup tests at two, six, and twelve months.
- 4) Hospitals and other health care providers may be requested to voluntarily provide information on the HIV infection status of the patient from which a significant exposure of an EMS employee occurred.
- 5) Persons with a significant exposure may elect (if patient source tests positive or if test results are unavailable) to abstain from sexual contacts or practice safer sex so that the possible infection is not transmitted to a sexual partner.
- 6) Persons with a significant exposure to an HIV antibody positive patient or a patient of known HIV status should not donate blood until he/she has tested negative for HIV antibodies least six months after exposure.
- 7) The "need-to-know" decision for EMS personnel to provide appropriate care during transfer of a person with HIV-related symptoms should be made by the patient's physician.

MARYLAND

In December 1988, Maryland promulgated draft standards for occupational exposure to blood-borne infectious diseases, including Hepatitis B (HBV), Hepatitis non-A and non-B viruses and HIV. The standards are directed at all places of employment covered by the Maryland Occupational Safety and Health Act, Article 89, Section 29 and apply to occupational contact with human blood, body fluids and tissue and other substances associated with the laboratory study of blood-borne infectious diseases. The standards rely on the General Infection Control Guidelines as established by CDC and by the Joint Commission on Accreditation of Health Organizations.

Employers are required to:

- evaluate job-related tasks and determine (under changing conditions) contact tasks.
- identify employees who perform contact tasks.
- determine the likelihood of contact.
- implement appropriate engineering controls and work practices, with minimum standards set.
- provide appropriate personal protective equipment (either provision for routine contact tasks or access for intermittent or unpredictable basis), medical monitoring, and worker training.
- implement a housekeeping program.
- monitor the effectiveness of work practices, protective equipment and housekeeping.
- implement a medical monitoring program that includes vaccine notification, employee blood monitoring and counseling and, when appropriate, post-exposure preventive treatment notification.
- provide employee information, training and education. General information on blood-borne infectious diseases and information on occupational exposure risk factors. A list of topics in training program is given.
- recordkeeping--maintenance of records on contact tasks, work practices, training compliance, and exposure monitoring.

Additional guidelines are being developed by the Maryland Department of Mental Hygiene.

TEXAS

As of February 1988, revised rules and regulations relating to the prevention, reporting and control of communicable diseases were adopted by the Texas Board of Health. The Venereal Disease Act and portions of the Tuberculosis Code were repealed and their salient provisions were added to the Communicable Disease Prevention and Control Act.

HIV infection, diagnosed by a physician with supporting laboratory evidence, is defined by one of the following tests:

- 1) a serum specimen that is repeatedly reactive for HIV antibody by a licensed screening test (e.g., ELISA) and the same or an additional serum specimen that is positive by a subsequent test (e.g., Western blot, IFA); or

- 2) a positive test for serum antigen; or
- 3) a positive lymphocyte culture confirmed by specific HIV antigen test or by in situ hybridization using a DNA probe.

Initial provisions also outline: those disease and health conditions which are reportable, who shall report, where to report a communicable disease, reporting and other duties of local health authorities and regional directors, and diseases requiring exclusion from child-care facilities and schools.

Several provisions specifically relate to HIV and worker notification and/or universal precautions.

- 1) Licensed hospitals are required to "notify a local health authority in certain instances when an emergency medical service employee, a peace officer, or a firefighter may have been exposed to a communicable disease during the course of duty from a person delivered to the under condition which were favorable for transmission."
- 2) At the time of death, if a physician has knowledge that a person had a communicable disease, then "the physician shall affix or cause to be affixed a tag on the body, which should include the words COMMUNICABLE DISEASE - - BLOOD/BODY FLUID PRECAUTIONS REQUIRED." All persons then should routinely practice certain procedures when performing post-mortem care by: wearing a gown, gloves, mask and eye-coverings when performing tasks which involve extensive contact with blood and body fluids; washing skin immediately; appropriately disposing of needles and other sharp objects or disinfecting by chemical disinfection or steam sterilization; appropriate cleaning of spills of blood and other body fluids promptly with approved disinfectant.
- 3) Health care personnel shall follow the guidelines given in CDC's "Recommendations for Prevention of HIV Transmission in Health-Care Settings".

WORKER NOTIFICATION LEGISLATION

1988:

Alabama, HB 5-XX
Arizona, HB 2126
California, AB 1119
California, ACR 108
California, SB 1552
California, SB 1913
California, AB 3673
Delaware, HB 559
Florida, HB 1519
Georgia, HB 1281
Hawaii, HB 2046
Hawaii, HB 2268
Hawaii, HB 3151
Idaho, SB 1275
Illinois, HB 737
Illinois, HB 4005
Indiana, SB 9
Iowa, HB 2294
Iowa, SB 2157
Kansas, SB 686
Kansas, HB 2759
Kentucky, HB 14
Louisiana, SB 252
Louisiana, SB 253
Louisiana, HB 552
Maine, SB 916
Maryland, HB 16
Maryland, SB 215
Michigan, HB 4028
Michigan, HB 5026
Michigan, HB 5189
Minnesota, SB 994
Mississippi, HB 515
Missouri, HB 1151/1044
Nebraska, LB 1012
New Hampshire, HB 1162
New Jersey, AB 1457
Oklahoma, HCR 1064
Oklahoma, HB 1798
Oklahoma, HB 1910
Rhode Island, SB 2998
Rhode Island, SB 2622
Rhode Island, SB 3438
South Carolina, HB 2807
Utah, HB 9-XX
Vermont, HB 239
Vermont, HB 460
Virginia, HB 652
Virginia, HB 1092
Virginia, SB 107
Washington, SB 6221
West Virginia, HB 303

1987:

California, AB 1726
California, AB 2356
Colorado, HB 1177
Illinois, HB 736
Illinois, HB 1242
Illinois, HB 2044
Illinois, SB 771
Indiana, HB 1010
Iowa, SB 340
Louisiana, SB 380
Massachusetts, HB 6378
Michigan, SB 544
Mississippi, HB 12
North Carolina, HB 458
North Dakota, HB 1304
Rhode Island, SB 966
Texas, HB 1829
Texas, SB 66-XX
Wisconsin, AB 678

1986:

California, SB 2192
California, SB 1518
Florida, SB 576
Georgia, SB 387
Illinois, HB 2644
Massachusetts, HB 5491
Maryland, HB 1013
Maryland, SB 155
Michigan, HB 5300
Rhode Island, HB 7764
Tennessee, HB 1905

1985:

California, AB 403
Florida, HB 627
Illinois, HB 725
South Carolina, SB 547
Wisconsin, AB 487

1984:

New Jersey, AB 321

1983:

New York, SB 6956

1988 LAWS

ALABAMA HB 5-XX (1988) -- Allows for the notification of pre-hospital transport agencies, funeral directors, school superintendents and others when indicated, if exposure to a contagious patient has occurred. Physicians and hospital administrators may notify pre-hospital transport agencies and EMTs of patient's contagious condition.

Contagious condition is classified under communicable.

ARIZONA HB 2126 (1988) -- Requires Director of Department of Health Services to formulate criteria and a plan to notify local school districts when a district pupil carries the HIV virus. Includes proper education, training and counseling for staff and pupils.

CALIFORNIA AB 1119 (1988) -- Allows for notification of possible exposure to EMT or health care provider, if, after incident, EMT or health care provider has initiated proper procedure within receiving facility by filling out and distributing form provided by facility. Reportable disease or condition classified under communicable.
County health official classified as local.

CALIFORNIA ACR 108 (1988) -- Legislature encourages and requests that every employer implement AIDS education programs for all employees.

CALIFORNIA SB 1552 (1988) -- Licensing boards for health professionals are required to consider including segment on AIDS as a condition of licensure and/or renewal of a license.

CALIFORNIA SB 1913 (1988) -- Law enforcement personnel are required to report any contact with bodily fluids. Parole or probation officers must be notified of all HIV positive clients. These officers are required to notify county health authorities of these clients status. Prison medical personnel and supervisors are required to notify correctional personnel of an inmate's HIV status if the personnel will have close contact with the infected inmate. The latest medical information regarding precautions, protective clothing and other protective devices are required to be provided to law enforcement personnel.

CALIFORNIA AB 3673 (1988) -- The Department of Health Services is required to conduct a study on the techniques and training of EMTs and other emergency personnel on prevention of transmission and exposure to HIV.

DELAWARE HB 559 (1988) -- HIV-test results and information can be released to health care providers who have had a significant exposure or who have a medical need to know such information.

FLORIDA HB 1519 (1988) -- Health professionals and workers are to be educated about transmission and prevention in their unique working environment. All state employees, especially correctional and law enforcement personnel, are to receive AIDS education, information and consultations. Information is to be provided to private employers so that they in turn can provide it to their employees. All police personnel must undergo a basic skills training course on AIDS/HIV.

All health professionals requiring state licensure must complete an AIDS/HIV education course approved by the Department of Health to be licensed. Failure to complete the course is grounds for disciplinary action. The Department of Health shall require all employees of facilities with state licenses to complete an AIDS/HIV education course.

The HIV test results of a prisoner may be released to correctional personnel who are responsible for the custody and care of the infected inmate and have a need to know such information.

The Department of Health can forcibly test any person or inmate who injures or causes to be injured any police officer, fire fighter, EMT, correctional officer or paramedic acting within the scope of employment, if the injured emergency care provider provides a statement from a physician that the injury was such to be capable of allowing transmission of the disease covered by this act and there is sufficient probable cause to examine and test the source patient.

GEORGIA HB 1281 (1988) -- Allows for disclosure of confidential HIV-related information to health care workers who have been exposed and/or with a medical need to know.

HAWAII HB 2046 (1988) -- Legislature declares AIDS to be a challenge to Hawaii's health and education systems, workplace and private service organizations. Calls for health professional education, including special efforts needed to ensure special precautionary measures such as the use of isolation clothing and more personalized care.

HAWAII HB 2268 (1988) -- Law forbids testing without informed consent, except in specific situations, such as if there is reason to believe that the safety of health care providers may be in imminent jeopardy due to exposure to the blood and/or body fluids of a patient suspected of possible HIV infection. If the patient is unable to give consent and the treating physician determines it is necessary to know the patient's HIV status to make a diagnosis or to determine the appropriate course of treatment or because the safety of health care providers may be affected, HIV testing may occur without informed consent.

HAWAII HB 3151 (1988) -- HIV testing cannot occur unless informed written consent has first been obtained. Exceptions to this rule include testing an anatomical gift, research purposes and when there is reason to believe that the safety of health care providers may be in imminent jeopardy due to exposure to blood and body fluids of a patient suspected of possible HIV infection. The hospital must pay for this test and patient must be informed it was performed. The patient must be given the opportunity to get the results of the test and counseling.

IDAHO SB 1275 (1988) -- The Board of Health is responsible for establishing appropriate rules and training programs for emergency personnel involved at accident and crime scenes, especially when it involves blood and other body fluids.

ILLINOIS HB 737 (1988) -- Annual plan must be submitted to coordinate efforts against substance abuse, including a statement on the need for services to reduce the spread of AIDS. Education and training programs for people working with detoxification programs must be developed and shall include specific AIDS education and training.

ILLINOIS HB 4005 (1988) -- No informed consent is needed to conduct an HIV test if a health care provider or emergency medical provider has suffered an accidental exposure, sufficient in a doctor's opinion, to be capable of transmitting disease. If the patient tests positive for the HIV virus, counseling must be provided at the time test results are revealed.

INDIANA SB 9 (1988) -- If the body of a deceased individual is infected, at the time of death, with an infectious disease as specified by the Board of Health, any person taking possession of the body must be notified of the presence of the disease. Failure to disclose this information is a misdemeanor.

The handling and treatment of infectious waste must conform to the standards established by the Board of Health.

If an emergency medical provider is exposed to blood or body fluids while providing emergency care, to a magnitude that has been demonstrated epidemiologically to transmit a dangerous communicable disease, he shall be notified within 72 hours of a patient's admittance to a facility, if the facility obtains information from the patient's records or a diagnosis is made that the patient

has a dangerous communicable disease. Failure to provide such notification is a misdemeanor. The failure of a public employee to provide the mandated notification is grounds for dismissal.

An employer shall provide training and the necessary equipment to all employees, whose normal duties require them to have direct contact with blood or body fluids. Penalties and/or fines can be imposed for failure to comply with these standards. Sanctions are also available for failure to use universal precautions when handling potentially infectious material.

IOWA HB 2294 (1988) -- The identity of a test subject or the results of the subject's HIV test cannot be disclosed to anyone, except as specifically provided for in the law. Included as an exception is an authorized agent or employee of a health facility or health care provided who provides patient care and/or handles blood and body fluids.

Funeral directors must be notified if the body of the deceased is infected with a contagious or infectious disease.

The Department of Health shall establish for all emergency medical providers and for all persons who attend dead bodies, protocol and procedures for the use of universal precautions to prevent the transmission of contagious and infectious diseases.

IOWA SB 2157 (1988) -- Personnel of licensed hospices, homemaker/home health aide agencies are required to complete a minimum of two hours of AIDS training. All firefighters, EMTs and other emergency personnel and law enforcement personnel must complete a minimum of two hours of AIDS training.

The Director of the Health Department shall adopt rules and regulations establishing standards for accreditation of laboratories and staff which test for HIV.

KANSAS SB 686 (1988) -- A physician performing medical or surgical procedures on a patient who the physician knows has AIDS or has had a positive reaction to an AIDS test may disclose such information to other health care providers who will be placed in contact with bodily fluids of the patient during medical procedures.

When a person, who has been diagnosed with an infectious or contagious disease dies, any person making arrangements for the disposition of the body shall indicate on the form provided by the Secretary of Health and Environment that the deceased had such a disease. This notice shall accompany the body to any embalmer, funeral director or other person taking possession.

KANSAS HB 2759 (1988) -- The Secretary of Health and Environment is hereby authorized and empowered to promulgate rules and regulations establishing the procedures and qualifications for approving laboratories performing serological tests for human immunodeficiency virus, including the qualifications and standards of the laboratory personnel.

KENTUCKY HB 14 (1988) -- The Cabinet for Human Resources shall identify by regulation those communicable diseases which require blood and body fluid precautions.

If a person, who has been diagnosed as being infected with a communicable disease for which blood and body fluid precautions are required, dies within a health facility, the facility shall notify any embalmer or funeral director to whom the body will be transported of the need for such precautions. However, the lack of such notice shall not relieve any embalmer or funeral director from taking universal blood and body fluid precautions as are recommended by the United States Department of Health and Human Services and Human Services for Disease Control for Morticians Services.

LOUISIANA SB 252 (1988) -- Hospitals receiving patients subsequently diagnosed with infectious diseases, as defined by the Board of Health, are required to notify the firms, agencies or

organizations involved in treating or transporting the patient of the diagnosis and to advise of the appropriate treatment for the exposed personnel.

LOUISIANA SB 253 (1988) – If an agent or employee of a hospital is exposed to the blood or body fluids of a patient and the exposure is sufficient to transmit the HIV virus, the hospital may, without the patient's consent, conduct an HIV test on a previously drawn sample of the patient's blood.

The hospital can inform the agent or employee of the test result and, if the test result is positive, shall inform the patient of the result and counsel as necessary.

LOUISIANA HB 552 (1988) – Each hospital, nursing home and coroner that requests a funeral director, embalmer or representative to transport a corpse shall notify any person taking possession whenever there is actual knowledge that the corpse is infected with a contagious disease. Notification of the infection with a contagious disease shall occur during the initial telephone communication requesting that the corpse be transported. Further notification shall include a clearly visible, external tag that is readily discernable from other identification markers and a written statement that clearly indicates the name of the contagious disease or causative agent infecting or infesting the corpse.

Violation of the provisions of this section shall be grounds for a fine of not more than five thousand dollars and/or suspension or revocation of the professional license or certificate of the violator or for other disciplinary action by the respective professional regulatory board.

MAINE SB 916 (1988) – Allows disclosure of test results to worker after exposure based on HIV test. A health care provider, employee of health facility or patient significantly exposed to blood or body fluids of patient may request that individual to be tested. The law does not allow patient to request health workers to be tested if significant exposure to blood or body fluids of the worker. Court orders are required when patient refuses to be tested. The law details court and judicial proceedings and outlines what findings must be made before a court order is issued. Contains due process protection for source patient.

The law mandates that a patient does not need to be told their test results if they do not wish to find out. Specific confidentiality provision regarding required notification and testing provisions mandate that the results of related testing shall not appear in the source patient's medical record. This also serves to protect the patient from discrimination in insurance, when combined with the state's other provision that a person may not be required to reveal whether or not they have ever been HIV tested.

MARYLAND HB 16/SB 215 (1988) – Adds law enforcement officers to the list of notifiable personnel. Law officer and employer or employer's designee shall be notified, if the law officer comes into contact with a patient who is subsequently diagnosed as having a contagious disease or virus (including HIV and Hepatitis B) during visit to facility for services. Offers liability protection for providers for failure to notify, if the worker fails to initiate proper notification procedure or if the employer fails to notify worker.

MICHIGAN HB 4028 (1988) – In correctional facilities, if an employee is exposed to blood and body fluid of a prisoner in a manner that could transmit HIV, the prisoner shall be tested for HIV or HIV antibodies. (Each incoming prisoner is tested under the law.) If the prisoner refuses to undergo test, he shall be considered by Department to be HIV positive.

At the request of an employee, the Department shall provide or arrange for a HIV or HIV antibody test of the employee, at no charge. Also at the employee's request, the Department shall provide the employee with equipment necessary to implement universal precautions.

The results of the test shall be disclosed only to persons who demonstrate to the Department a "need to know".

For state correctional facilities, the Department and the Department of Public Health shall develop and implement a comprehensive AIDS education program, designed specifically for correctional environments for staff, health care personnel and prisoners.

MICHIGAN HB 5026 (1988) -- The law provides that if emergency personnel (police officers, fire fighters, EMTs and other licensed emergency personnel) assist or transport an emergency patient to a health facility and if patient is subsequently tested for the presence of an infectious agent and the test is positive, the health facility must, on a form provided by the Department of Public Health, notify the emergency personnel that they may have been exposed to an infectious agent and the appropriate infection control precautions to take. HIV positive results will be released only if a written request is received from the emergency personnel affected. Notification shall occur within 2 days of the health facility receiving the test request from the worker for HIV test results. This notification shall be considered given if the health facility notifies the chief elected official of the local government unit which employs or otherwise has jurisdiction over the emergency personnel. Rules may be promulgated by the Department to administer the law.

The required notice shall not contain any information which would identify the emergency patient who tested positive for an infectious agent. All information in the notice is confidential. An individual who discloses confidential information regarding an infectious agency that in not a serious communicable disease or infection or HIV is guilty of a misdemeanor. Disclosure of information regarding a "serious" communicable disease is punishable by more stringent penalties.

MICHIGAN HB 5189 (1988) -- Confidentiality for all reports, records and data pertaining to testing, care, treatment, reporting and research associated with communicable disease. Among the exemptions for disclosure are for one or more of the following purposes: a) to protect the health of an individual, b) to prevent further transmission of the communicable disease or serious communicable disease or infection, and c) to diagnose and care for a patient.

The law stipulates stiffer penalties for unauthorized disclosure of information pertaining to an individual with a serious communicable disease or infection. Non-governmental entities are liable for actual civil damages or \$1,000 whichever is greater plus attorney fees. The law also makes it a three-year felony or levies a \$5,000 fine for government employees violating the disclosure provisions when an individual has a serious communicable disease or infection.

The law also allows a health facility to adopt a standard protocol for performing an HIV test prior to an incise or invasive procedure. Finally, the law allows health facilities use a standard protocol to inform patients that n HIV test may be performed without written informed consent, if a health facility employee sustains a percutaneous, mucous membrane, or open wound exposure to the blood or other body fluids of the patient.

MINNESOTA SB 994 (1988) -- In case of death or dismemberment, makes it possible for emergency care personnel or first responders to receive workman's compensation, if exposed to infectious or communicable disease on the job.

MISSISSIPPI HB 515 (1988) -- Requires general notification of any health care provider in any situation that requires special precautions. With regards to EMTs, etc., these workers need be notified according to rules and regulations to be promulgated.

MISSOURI HB 1151/1044 (1988) -- Contains general mandatory notification of emergency care and mortuary personnel provisions, with general provisions to maintain confidentiality of such reports.

Also contains required disclosure provisions, requiring all persons who are HIV infected to tell their providers before seeking or obtaining services. Also in Missouri, any health care provider who has a "reasonable need to know" can be told the HIV test results of a patient.

NEBRASKA 1012 (1988) -- Generally prescribes that education and training regarding HIV infection be made available to all health care workers. Laboratories performing HIV tests must be certified.

NEW HAMPSHIRE HB 1162 (1988) -- While EMTs and related workers must be trained, other health care professionals may request training; information materials must be given. Labs must be certified for HIV testing.

NEW JERSEY 1457 (1988) -- In case of death, mandates written notification that deceased person has an infectious or communicable disease (including HIV and Hepatitis B). Notification must be made by person determining death and must be made to the funeral director. Notification is made if physician "determines or has knowledge" that a person is infectious or communicable.

OKLAHOMA Resolution 1064 (1988) -- General resolution asking (not requiring) all health care workers and others who may come in contact with blood and blood products to be educated about preventing and controlling spread of HIV. It strongly encourages all health care workers to follow OSHA guidelines and for employers to provide appropriate equipment.

OKLAHOMA HB 1798 (1988) -- Mandates that emergency care workers and first responders, among others, must follow CDC's universal infection control guidelines. Rules and regulations to be developed by Dept. of Health.

OKLAHOMA HB 1910 (1988) -- Department of Health must develop rules and regulations regarding quality assurance and personnel, proficiency testing, number of tests and record keeping, among other items. Unlicensed laboratories performing tests are assessed a penalty.

RHODE ISLAND SB 2998 (1988) -- Adds policemen to the list of persons who must be notified of exposure to infectious disease. Notifiable time limit is 48 hours after confirmation of patient's diagnosis. The definition of exposure is general for this type of mandatory notification. Firefighters must also be vaccinated to prevent hepatitis B.

RHODE ISLAND SB 2622 (1988) -- Infection control guidelines must be promulgated for tattoo parlors and those who perform tattoos.

RHODE ISLAND SB 3438 (1988) -- Contains additional mandates for testing and notification after exposure incidents. Allows persons not in a health care facility to request a source patient to be tested after a significant exposure to blood and body fluids. Could include anyone exposed while fulfilling their occupational duties. Incident reports must be filed within 48 hours and shall include reference to parties involved, witnesses, time, place, etc. The complainant must submit to a baseline test in 72 hours and must be found negative before the source individual can be tested. No procedures outlined in the law for how blood samples will be taken without informed consent.

In health care facilities, a three-person evaluation group determines if the exposure was significant after a report was filed. As opposed to mandatory notification of EMTs, etc., these testing provisions apply to all health workers. In a health facility, informed consent must be obtained from the source patient before testing occurs, if no blood sample already exists. An existing blood sample may be tested without informed consent, if a patient refuses and a court order is obtained.

In Rhode Island, all patients entering a hospital must be offered a voluntary HIV test. A physician may disclose the positive test results to anyone who may come into contact with the patient's blood or body fluids. A notice of disclosure must be given to a patient if results are given to a

third party. The law contains antidiscrimination provisions that safeguard a person from discrimination, just because they tested positive for HIV.

SOUTH CAROLINA 2807 (1988) -- Contains broad language. Significance of "possible" exposure to be determined by "a health care professional", who must have a "reasonable" cause to believe that the exposure will cause infection. School officials, the superintendent of the school district and the school nurse must be notified if a child is HIV positive or has AIDS.

UTAH 9-XX (1988) -- Law specifically targeted to worker exposure in the workplace. It applies mainly to first responders including correctional personnel who undertake pre-emergency care. Defines significant exposure to include needle stick, mucous, broken skin, contact to blood or body fluids (other than tears), perspiration.

All significant exposures must be documented in writing. Upon such notice, hospital/facility receiving patients shall request that they consent to blood testing to detect presence of any disease described in section. Patients must be informed of right to refuse. If they refuse, the fact must be forwarded to designated agent, who will forward this information to the EMT. The right to consent does not apply to anyone convicted of crime and in custody. If the patient is unable to give consent, the receiving facility may obtain it from a guardian or next-of-kin. The following tests may be performed on unconscious patient: Hepatitis B and any disease other than AIDS, designated by the Department for purposes of this chapter. If the patient who is the subject of the significant exposure dies, prior to admission, discharge or release from the facility that received him, without opportunity to consent to test, testing for diseases under this chapter shall be conducted. Blood samples for tests conducted under this chapter may only be obtained by a physician, RN, practical nurse, etc. Blood tests to determine the presence of HIV may only be performed by the state health laboratory. Facility that receives patient is responsible for the cost of drawing blood for tests, while the agency that employs the EMT who requests the tests is responsible for the cost of testing and all other associated costs.

Results of the tests performed under this chapter shall be reported by the facility to a designee of the agency employing the exposed EMT. In the case of an HIV test, the state health laboratory shall report results to state health officials who will report the results to the agency that employs the EMT. The facility that receives the patient shall inform the worker of the test results, except those related to HIV. Results of HIV tests shall be reported to the patient by public health officials. In making a report to a designee of the agency regarding an HIV test, the public health official shall use a case number instead of the patient's name. All information concerning test results obtained under this chapter that identify the patient shall be maintained as strictly confidential by the hospital, physician, and facility. The results cannot be made public upon subpoena, search warrant, or discovery, except as provided under this chapter: a) information may be released with written consent of the patient and any information concerning test results obtained under this chapter may be released in such a way that no patient is identifiable; b) any person or entity entitled to receive confidential information under this chapter, other than test subject, who violates this section by releasing or making confidential information public is guilty of a misdemeanor. All patients tested for HIV must be given pre-test counseling by the receiving facility. Public health officials must notify patient and provide post-test counseling. The agency employing the EMT must pay for the counseling.

If the EMT claims that he contracted disease as a result of exposure at work, it will be considered an accidental exposure: a) if an employee worked for the agency in the state prior to 7/1/88 and tests positive for disease while employed or within three months of termination and b) if an employee tests negative for disease at beginning of employment (7/1/88) and tests negative three months later and later tests positive or tests positive within three months of termination. Each agency must inform employees of these terms and conditions of these benefits. For purposes of establishing a worker compensation claim, the "date of the accident" is presumed to be the date on which an EMT first tests positive for a disease; benefits will be calculated according to the last day of work. These time limits do not apply if the worker gave proper written notice of

significant exposure at the time of the accident. Any claims must be filed within one year of incident and any EMT who refuses or fails to be tested is not entitled to any benefits. Death benefits are payable only if it can be established by competent evidence that death was a consequence or result of disease acquired on the job and the death occurred within 6 years from the date employee first became disabled or required medical treatment for the condition. For purposes of receiving workmen's compensation, any person performing services of EMT is considered an employee of entity for whom he provides those services. For voluntary EMTs with other primary employment, workmen's compensation will be provided based on that primary employment. If no other employment and are voluntary, workmen's compensation will be minimum level.

VERMONT 239 (1988) -- Basically protects individuals, including employees or patients from discrimination on the basis of having a positive test result. Sets standards for employers in testing employees. (Not specific to incident or exposure.)

VERMONT 460 (1988) -- Mandates standards for testing and insurers, not directly related to worker notification, exposure, etc. However, protects individuals from discrimination on the basis of occupation.

VIRGINIA SB 107 (1988) -- Originally targeted to transporters. Name of patient must be kept confidential after notification. If subsequently learned that patient is positive, must tell designee from transportation agency, i.e., an infection control person who determines if exposure was significant. Confidentiality for incident reports covers both the worker and patient. Personnel cannot refuse to transport a patient because they are HIV positive.

VIRGINIA SB 1092 (1988) -- (Same as above.) Persons who may be notified include those transporting a patient (ambulance drivers) or deceased body. Infection control mandated as all facilities must designate an infection control officer, as must every emergency medical services agency.

VIRGINIA HB 652 (1988) -- Must notify funeral directors. Cannot refuse to care for a body if it has infectious agent. Can take measures, licensure measures, against funeral directors for breach of confidentiality.

WASHINGTON HB 6221 (1988) -- Exposure language references "substantial" exposures and "presents a possible risk", with determination of significance tied to regulation. Exposed personnel may request a state or local public health official to order pre-test counseling, HIV testing and post-test counseling for source patient. Includes categories of employment to be determined by Board of Health. Testing can be ordered by court orders as necessary, if patient refuses to be tested. The Department will establish standards for pre and post-test counseling. Persons requesting tests have access to test results, but must keep them confidential. Criminal penalties for any violation of chapter.

Mandatory AIDS education is across the board and is necessary for a broad range of health care providers. Does not specifically include laboratory technicians. Makes AIDS education a condition of licensure. Others to be educated include designated personnel in schools likely to come in contact with HIV infected blood or body fluids

WEST VIRGINIA HB 303 (1988) -- Possible exposure to HIV infected blood. The director of the Department of Health may request the test. Purpose of testing is to counsel and provide special treatment to worker who was "possibly exposed" or to patient (i.e., individual who "receives" care). Language also extends to "good Samaritans." Notification requirements are indirectly worded in the permissible disclosure section. It is not mandatory disclosure; however, test results may be given to anyone with a "medical need to know" or to health care personnel when necessary to care or treat a patient "in an appropriate manner."

1983 - 1987 LAWS

CALIFORNIA AB 403 (1985) – Confidentiality regarding disclosure of test results; civil penalties.

CALIFORNIA SB 2192 (1986) – Requires the Department of Education to provide AIDS and AIDS-related information to local school districts for dissemination to employees including, but not limited to, information on appropriate methods to prevent exposure to AIDS.

CALIFORNIA SB 1518 (1986) – Requires EMTs, paramedics, lifeguards, firefighters and peace officers who have rendered emergency medical services and have been exposed to someone with a reportable disease to be notified of the exposure. Health facilities or county health officers are required to notify funeral directors taking responsibility for deceased persons with reportable diseases of the presence of the disease prior to the release of the body.

CALIFORNIA AB 1726 (1987) – Requires police officers, sheriffs, deputy sheriffs, marshals, deputy marshals, and peace officers of the State Police and Highway Patrol to meet specified training requirements in the use of a portable manual mask and airway assembly designed to prevent the spread of communicable diseases, as defined by the Emergency Medical Services Authority for the administration of first aid and CPR. Requires law enforcement agencies to provide peace officers with a portable manual mask and airway assembly for use when applying CPR.

CALIFORNIA AB 2356 (1987) – Requires emergency medical technicians, paramedics, lifeguards, firefighters and peace officers, who have provided emergency medical or rescue services to a person who is transferred to the chief medical examiner-coroner and later found to have communicable disease or condition determined by the county health officer to be transmissible through oral contact or secretions of the body (including blood), to be notified of the exposure and instructed to call the county health officer. The identification of the patient is not to be disclosed. Also, the county health officer or chief medical examiner-coroner is to provide notification of the disease or condition to the funeral director taking disposition of the decedent prior to releasing the body.

COLORADO HB 1177 (1987) – Basic reporting. No consent for testing of the patient (inmate or resident), if the health of a custodial employee or health care provider in the Department of Corrections and Department of Institutions is threatened by exposure to blood and body fluids, but no direct worker notification. Education of health care providers and education program on HIV infection in the workplace for use by employers.

FLORIDA HB 627 (1985) – Amends the Hospital Licensing Act to require licensed hospitals to notify EMTs, paramedics or their emergency medical transportation service employers and other persons who have come into direct contact with patients who subsequently receive a confirmed diagnosis of an infectious disease. Notification is to be provided within 48 hours of confirmation of the patient's diagnosis as well as any indicated appropriate treatment. Notification is to be provided in such a way that the confidentiality of the patient's identity is protected.

FLORIDA SB 576 (1986) – The Department of Health and Rehabilitative Services may examine or authorize the examination of any person or inmate who injures a law enforcement or correctional officer, firefighter, or paramedic acting in the scope of employment. Evidence of injury with the possibility of transmission of an STD constitutes probable cause for issuance of a warrant authorized by a court of competent jurisdiction.

GEORGIA SB 387 (1986) -- When a person diagnosed as having an infectious or communicable disease (including AIDS) dies in a hospital or other health care facility, the attending physician is required to prepare a written notification describing the disease to accompany the body when it is picked up for disposition.

When a person dies outside of a hospital or health care facility and without an attending physician, any family member or person making arrangements for the disposition of the body who knows that the deceased had been diagnosed as having an infectious or communicable disease at the time of death is to prepare a written notification describing the disease to accompany the body when it is picked up for disposition.

Any person who picks up a body for disposition and who has been notified that the person had been diagnosed as having an infectious or communicable disease at the time of death is required to notify any embalmer, funeral director or other person taking possession of the body.

ILLINOIS HB 725 (1985) -- Public information campaign for physicians, hospitals, health facilities, public health departments and general public on AIDS.

ILLINOIS HB 2644 (1986) -- Requires hospitals to develop and adopt protocols for the notification of paramedics and ambulance personnel who have provided or are about to provide emergency care or life support services to a patient diagnosed with a dangerous communicable or infectious disease. Notification is not to include name of patient and medical records are confidential. Civil penalties for failure to notify.

ILLINOIS HB 1242 (1987) -- Amends the Hospital Licensing Act to require hospitals to give written notification to EMTs. Requires the Dept. of Public Health to establish by regulation a list of those communicable reportable diseases and conditions for which notification is required. The notification is to be made within 72 hours after a diagnosis is made for any of these diseases, except AIDS. With confirmed diagnosis of AIDS, hospital is authorized to provide notification only if EMTs have indicated on the run sheet that a reasonable possibility exists that they have had blood or body fluid contact with the patient, or if hospital is otherwise aware of exposure.

Provides for civil action by EMTs against an emergency services provider agency which fails to inform crew members of possible exposure following receipt of notification.

ILLINOIS HB 736 (1987) -- Training for school personnel to prevent AIDS transmission.

ILLINOIS SB 771 (1987) -- Requires the Dept. of Public Health to adopt rules for the appropriate labelling of a deceased person who had or is suspected of having an infectious or communicable disease that is transmissible through contact with the person's blood or body fluids. The "infection hazard" label is to direct funeral directors, embalmers, etc. to take suitable precautions. The responsibility for labelling is with certifying physician or designated staff member of facility.

ILLINOIS HB 2044 (1987) -- AIDS/HIV notification of school principal and then school nurse and teacher. Defendant testing for sex-related offense or controlled substance. Role of judge in revealing test results.

INDIANA HB 1010 (1987) -- Basic AIDS reporting law. Also requires physicians or health care providers who know that a deceased person had AIDS, ARC or HTLV-III infection to attach to the body a conspicuous notice attesting to the need for precautions when the body is picked up for disposition. Requires individuals who transport the body to present the information to the funeral director, embalmer, or other person taking disposition of the body. Information is to be kept confidential and may be disclosed only as required by federal or state law or under court order.

Local health officer may exclude student from school, if student has a dangerous communicable disease that is transmissible through normal school contacts and poses a substantial threat to the safety and health of the school community.

Dismissal from work for public employee for breach of workplace information on exposure.

IOWA SB 340 (1987) -- Provides for limited mandatory testing of prisoners committee to institutions under the control of the Dept. of Corrections or jails under the control of sheriff or other authorized personnel. Requires testing of prisoner for presence of contagious, infectious disease, if they bite or otherwise cause another person to be at risk of potential exposure, as determined by the staff physician. If testing is refused, superintendent of institution may apply for court order to require testing and treatment. Notification of prison or jail workers by correction institution; testing by state lab or other lab approved by DPH. Requires adoption of policies and procedures by the Dept. of Corrections to prevent the transmittal of contagious infectious disease to other persons.

LOUISIANA SB 380 (1987) -- Requires EMTs, paramedics, and others who may come into contact with the blood and body fluid of a patient subsequently diagnosed with HIV infection to be notified by the receiving hospital within 48 hours of confirmation of the diagnosis and provide counseling as to appropriate treatment. Notification may also be made to their employers. Provides confidentiality for these reports.

MARYLAND SB 155 (1986) -- Mandates AIDS-specific training in diagnosis, treatment and prevention of transmission of HIV for physicians and other health care providers.

MARYLAND HB 1013 (1986) -- Contagious diseases and hepatitis B, but not AIDS-specific, EMT law. Requires attending physician or his designee who receives a patient subsequently diagnosed as having a contagious disease to notify firefighter, EMTs, and rescue personnel who have come into contact with the patient during treatment or transportation to a medical care facility and their employers of the individual's exposure to the patient. Notification is to be within 48 hours and is to include written confirmation for the treatment or medical surveillance of the exposed individual. Protection of confidentiality.

MASSACHUSETTS HB 5491 (1986) -- HIV/AIDS-specific confidentiality law.

MASSACHUSETTS HB 6378 (1987) -- Notification of firefighters, police officers, EMTs, corrections officers, ambulance operators or attendants and other individuals who may be exposed to an infectious disease. Exposure capable of transmitting an infectious disease is defined by the Dept. of Public Health and is to include mouth-to-mouth resuscitation and co-mingling of blood. A trip report must be provided to the facility to which the patient is being transported and facility notifies emergency personnel if patient is subsequently diagnosed with an infectious disease--oral notification is to be made within 48 hours of diagnosis and written notification, within 72 hours. Notification is to include the appropriate medical precautions and treatment. The identity of patient must not be revealed. Provides immunity from criminal or civil liability for such notification. The law covers only infectious disease. First responders must notify facility.

MICHIGAN HB 5300 (1986) -- Physician completing the medical certification at the time of death who has knowledge of presence of an infectious agent, including AIDS-related virus, in the deceased individual is required to notify funeral director and authorized agent of appropriate infection control precautions before the body is released. The funeral director can not refuse to render services as a result of notification. Notification is required to be confidential; criminal penalties imposed for violations. Department of Public Health is required to promulgate rules to define an infectious agent.

MICHIGAN SB 544 (1987) -- AIDS education/training for health care workers and protection against exposure to disease in workplace.

MISSISSIPPI HB 12 (1987) -- Requires that when a person dies and has been diagnosed with an infectious or communicable disease, including AIDS, a tag is to be affixed to the body indicating the need for special precautions and is to be provided to those individuals taking disposition of the body. If the person dies outside a health care facility, a family member or other person making funeral arrangements is to advise the person taking disposition of the body. Failure to notify constitutes a misdemeanor.

NEW JERSEY AB 321 (1984) -- Mandates AIDS-specific education for health care professionals and others who have contact with people who have contracted AIDS about the diagnosis and treatment of AIDS.

NEW YORK SB 6956 (1983) -- Mandates the development of programs of professional education and training and improvements in instrumentation as necessary adjuncts to scientific investigations into the cause, prevention, methods of treatment, and cure of AIDS.

NORTH CAROLINA HB 458 (1987) -- Basic reporting law only. Amends the communicable disease law to include a definition of a "communicable condition" as infection with a communicable agent but without symptoms. Provides for confidentiality of reports and information regarding public and private records that identify a person with HIV infection. Requires the Commission for Health Services to adopt rules establishing standards for certification of laboratories to perform tests for AIDS virus infection. Rules and regulations for control measures. Authorizes the Commission to require testing for AIDS virus infection when necessary to protect the public health.

NORTH DAKOTA HB 1304 (1987) -- Provides for notification of firemen and EMTs following exposure to infectious diseases during treatment or transport of a patient to a licensed health care facility, if the patient is subsequently diagnosed as having an infectious disease. Notification is made to the employer of those exposed and must be made within 48 hours following diagnosis. The employer is to request the employee to contact the facility to receive appropriate medical counseling. Confidentiality protects all involved. Workmen's compensation statute amended to define disease to include exposure to specified infectious diseases which result in total or partial disability or death.

RHODE ISLAND HB 7764 (1986) -- If while treating or transporting a patient to a licensed facility, a firefighter or EMT comes into contact with a patient who is subsequently diagnosed as having an infectious disease, including AIDS, the licensed facility receiving the patient is required to notify the individual's employer of the exposure. Notification is to be made within 48 hours of confirmation of the patient's diagnosis and conducted in a manner which will protect the confidentiality of the patient, firefighter and EMT. The employee is to contact the health care facility to determine the infectious disease and the need for further medical counseling. An active firefighter, who is unable to perform his duties, secondary to an infectious disease that develops as a result of exposure on the job, is entitled to receive an occupational disability with all applicable benefits.

RHODE ISLAND SB 966 (1987) -- Adds AIDS to the list of infectious or communicable diseases for which notification is required in instances involving deceased individuals. Written notification is required. Person making funeral arrangements when a person diagnosed with an infectious or communicable disease dies outside a health care facility is also to notify the individual responsible for disposition of the body. All information is confidential. Civil penalties for violations of these requirements.

SOUTH CAROLINA SB 547 (1985) -- Amends the statute governing transportation of dead bodies. Provides that prior to transporting a deceased person known to be infected by any dangerous, contagious or infectious disease, the hospital, health or medical clinic, health care facility, physician or other health care provider is required to inform funeral directors, ambulance drivers and any other individual who is transporting the body in the presence of the disease. Provides

that if the body is to be held for autopsy, physicians or others charged with the responsibility of handling the body are also to be informed of the presence of the disease. The Department of Health and Environmental Control is required to provide to all providers and facilities normally involved in the disposition of human remains a list of diseases which are regarded as dangerous, contagious, or infectious. These diseases are to be further classified and designated to identify those that are so dangerous that transportation of bodies infected with them is prohibited except as prescribed by the Department.

TENNESSEE HB 1905 (1986) -- Requires physicians, surgeons, and other practitioners of medicine to notify the entity to whom a body is delivered, for disposition or preparation, of the known or suspected existence of any communicable disease, including AIDS, so that necessary and proper precautions can be taken in the handling, preparation for disposition of the body.

TEXAS SB 66-XX (1987) -- Provides that a patient may be required to be tested for AIDS or HIV infection, if a medical procedure is to be performed on the patient that could expose health care personnel to the disease, provided the procedure constitutes possible exposure as defined by the Board of Health and if there is sufficient time to receive the test result prior to the procedure.

TEXAS HB 1829 (1987) -- Requires the Board of Health to promulgate guidelines designating certain reportable diseases which would require notification to emergency medical personnel of possible exposure. The hospital diagnosing the disease in a patient transported to the facility is to notify the local health authority of the possible exposure. The local health authority then notifies the employer of the personnel of possible exposure. Confidentiality is to be maintained.

WISCONSIN AB 487 (Act 73) (1985) -- Basic AIDS law and restrictions on use of testing; informed consent and confidentiality.

WISCONSIN AB 678 (1987) -- Amends Act 70, previous disclosure law in terms of permissible disclosure to include a person who renders emergency care and during the course of which is significantly exposed to a person with possible HIV infection. Also provides for testing without consent if the patient dies or if testing shows disclosure is necessary to protect the health of other health care workers.