

Connecticut

All citations are to “Conn. Gen. Stat.” unless otherwise noted.

DEFINITIONS

- (1) “AIDS,” “confidential HIV-related information,” “exposure evaluation group,” “HIV infection,” “HIV-related illness,” “HIV-related test,” “health facility,” “protected individual,” “release of confidential HIV-related information,” “significant exposure,” and “significant risk of transmission” are defined at § 19a-581.
- (2) “Communicable disease control clinic” is defined at § 19a-216a.
- (3) “Psychologically impacted” is defined at § 20-329cc.
- (4) “Sexual act” is defined at § 54-102b.

CRIMINAL LAW

- (1) Any person who fails to comply with a court order requiring a person accused of a sexual offense to be tested for HIV shall be guilty of a class C misdemeanor. § 54-102a.

Education (5)

Social & Medical Services (7)

Testing & Reporting (3), (5), (12)

EDUCATION

(1) Each local and regional board of education shall offer ongoing and systematic instruction on AIDS (see Definitions (1)), taught by legally qualified teachers. The content and scheduling of the instruction shall be within the discretion of the regional or local school board. Each school board shall adopt a policy concerning the exemption of pupils from such instruction upon written request of a parent or guardian. § 10-19.

(2) Each local or regional board of education shall provide an in-service training program for its certified teachers, administrators, and pupil personnel. Such programs shall include health and mental health risk reduction education including the prevention of risk taking behavior by children and the relation of such behavior to sexually transmitted diseases (STDs), including AIDS and HIV-infection. § 10-220a.

(3) The Board of Governors of Higher Education shall establish an endowed chair in infectious diseases at the University of Connecticut. This chair will provide support for investigator(s) who will coordinate research activities into the microbiologic, immunologic, and clinical aspects of infectious diseases, including AIDS. The investigator(s) will provide a link between ongoing basic science research in infectious diseases and the clinical application of the new knowledge that is being generated. § 10a-132a.

(4) All moneys deposited in the AIDS research education account (see

Miscellaneous (1)) shall be used by the Department of Public Health and Addiction Services (Department) to assist AIDS research, education, and AIDS-related community service programs or to promote contributions to the AIDS research education account. § 19a-32a.

(5) The Department shall work with the Connecticut Sexual Assault Crisis Services to develop educational materials about HIV and AIDS, specifically as they relate to sexual assault. These educational materials shall be distributed to the Division of Criminal Justice and other agencies. The material shall include subjects such as the risks associated with HIV and sexual violence, testing options, risk reduction, and referrals and information regarding rape crisis centers and HIV testing sites. The Department shall provide funds to local health departments for the purpose of providing innovative and preventative programs on AIDS. The Department shall establish a public information program for the distribution of materials, including but not limited to pamphlets, films, and public service announcements. §§ 19a-112c, 121a, 121c.

(6) Any municipality, hospital, public or independent college or university, or individual may apply to the Commissioner of Public Health and Addiction Services for a grant-in-aid for the study or treatment of AIDS. § 19a-121f.

Social & Medical Services (8), (10)

Miscellaneous (1)

EMPLOYMENT

(1) Each town shall notify its police, fire, and emergency medical services personnel of the proper procedures pertaining to workers who have experienced a significant exposure to AIDS (see Definitions (1)). § 19a-588.

HOUSING

(1) The existence of any fact or circumstances which may have a psychological impact (see Definitions (3)), which includes the fact that an occupant of real property is, or was at any time suspected to be, infected with HIV on the purchaser or lessee, is not a material fact that must be disclosed in a real estate transaction. No cause of action shall arise against an owner of real estate or an owner's agent for the failure to disclose to the transferee that the transferred property was psychologically impacted. If a purchaser or lessee of real estate advises an owner of real estate or an agent, in writing, that knowledge of a psychological impact is important to a decision to purchase or lease the property, the owner shall report any findings to the purchaser or lessee, in writing, subject to privacy laws. If the owner refuses to disclose such information, the agent shall so advise the purchaser or lessee in writing. §§ 20-329dd, 329ee.

Social & Medical Services (1), (6)

INSURANCE

Social & Medical Services (3)

Testing & Reporting (3), (5), (9), (10)

RESEARCH

(1) A manufacturer, research institution, or researcher shall, prior to the administration of an AIDS (see Definitions (1)) vaccine to a person, obtain the informed consent of that person. A parent or legal guardian of a child may give informed consent for the child. Whoever administers such a vaccine shall not be liable to a research subject for civil damages for personal injury resulting from the administration of any AIDS vaccine to the research subject, unless such injury was caused by gross negligence or reckless, willful, or wanton misconduct. This immunity shall not apply to a manufacturer, researcher, or research institution who intentionally provides false information in connection with an investigational new drug application. The research subject shall be provided with a written explanation of the above-mentioned immunity provisions. §§ 19a-591a, 591b.

(2) No person shall be denied the opportunity to be a research subject because of the inability to pay for medical treatment. § 19a-591c.

Education (3), (4)

Testing & Reporting (3)

Miscellaneous (1)

SOCIAL & MEDICAL SERVICES

(1) If a person temporarily residing in a substance abuse clinic or group home for persons with AIDS (see Definitions (1)) applies for general assistance in the town where the clinic or group home is located, such town shall transfer the application to the town of the applicant's legal domicile in accordance with Department of Social Services (Department) regulations. § 17b-62.

(2) The Department shall determine the rates to be charged by home health care agencies and the rates to be paid to such agencies by the state or any town in the state for persons aided or cared for by the state or any such town. The Department may increase any fee payable to a home health care agency or home-maker home health aid agency upon the application of such an agency evidencing extraordinary costs related to serving persons with AIDS. § 17b-242.

(3) A program to provide insurance assistance for people with AIDS is established in the Department. The state shall pay insurance premiums for persons who, due to AIDS-related disease, are unable to obtain health insurance coverage through an employer. To qualify for assistance, a person shall have a family income less than 200% of the federal poverty level, shall have less than \$10,000 in cash assets and shall have

health insurance which may be continued upon termination of employment of the person or a family member. In order to qualify for this assistance, an applicant must submit to the Department a physician's statement that the applicant has an AIDS-related disease. § 17b-255.

(4) The Commissioner of Social Services may administer a program providing payment for the cost of drugs prescribed by a physician for the prevention or treatment of AIDS, AIDS-related complex, or HIV. The Commissioner shall determine specific drugs to be covered and may implement a pharmacy look-in procedure (a procedure that limits the purchase of drugs) for the program. § 17b-256.

(5) The Department shall establish rates based on reasonable costs related to patient care for a demonstration project which shall provide skilled and intermediate nursing home care for persons with AIDS in a facility which is located within the Connecticut metropolitan area which has the highest incidence of AIDS and which is specifically established, equipped, and staffed for such purpose. § 17b-348.

(6) The state, acting at the discretion of the Commissioner of Social Services, may enter into a contract with a nonprofit corporation to provide financial assistance in the form of a state grant-in-aid to such corporation for the purpose of providing housing for homeless persons suffering from AIDS. § 17b-803.

(7) The Department of Public Health and Addiction Services shall fund and provide HIV counseling, testing, and referral to appropriate health care and support services to victims of a criminal sexual act (see Definitions (4)), regardless of whether any person is convicted or adjudicated delinquent for such act. § 19a-112b.

(8) The Department of Public Health and Addiction Services shall establish a grant program to provide funds to private agencies which provide services to persons suffering from AIDS and to their families. The grants shall be used for services including education, counseling, and prevention. Any agency which receives such funds to provide AIDS tests shall give priority to persons in high-risk categories and shall establish a fee schedule based upon a person's ability to pay for the test. § 19a-121.

(9) A task force is established to work with the Department of Public Health and Addiction Services in the planning of programs for persons suffering from AIDS and for their families. The task force shall act as an advisory board to the Commissioner of Public Health and Addiction Services for a four-year term and shall prepare an annual report on its findings and recommendations. § 19a-121e.

(10) The Department of Public Health and Addiction Services shall establish needle and syringe exchange programs in the Health Department of the three cities having the highest total number of cases of AIDS among intravenous drug users. The programs shall be incorporated into existing AIDS prevention and outreach projects in the selected cities and shall provide for free and anonymous exchange of needles and syringes. The programs shall also offer education on the transmission of HIV and prevention measures and assist program participants in obtaining drug treatment

services. The Commissioner shall require such programs to evaluate the effectiveness of the program in the first year. § 19a-124.

(11) A statewide Adolescent Health Council shall make recommendations on facilitating federal, state, and community action to address issues such as sexually transmitted diseases and AIDS. § 19a-125.

(12) Any licensed physician who provides examination or treatment for HIV to a minor shall obtain the consent of the parent or guardian of the minor unless the physician determines that notification of the parent or guardian will result in the treatment being denied, or the physician determines that the minor will not seek, pursue, or continue treatment if the parent or guardian is notified, and the minor requests that the parent or guardian not be notified. The physician shall fully document the reasons for the determination to provide treatment without parental consent, and such documentation shall be signed by the minor and included in the minor's clinical record. The minor shall be personally liable for all costs and expenses. § 19a-592.

(13) A court may require a child who has engaged in sexual intercourse with another person who is thirteen years of age or older to participate in a teen pregnancy program, STD program and require such child to perform community service, such as for an AIDS prevention program. § 46b-149.

(14) The Commission of Social Services shall study the feasibility and cost-effectiveness of providing coverage for certain psychotropic or HIV-related medications for individuals who become ineligible for the Medicaid program, medical assistance under the general assistance programs, the Connecticut Aids Drug Assistance Program or the ConnPACE program due to the income earned after becoming employed as a result of such a medication alleviating a disability that had been a barrier to employment. The study shall assess the cost-effectiveness of providing a limited pharmacy benefit for those individuals who return to work and do not have access to adequate group health insurance coverage for the cost of such medication. 1998 Ct. ALS 239 § 10.

(15) The Commissioner of Public Health shall establish and administer a program of services for children and youth who experience the illness or death of one or more family members to HIV disease. The Commissioner shall, within annual appropriations, provide funds for pilot projects, for purposes of the program, with local providers of child mental health services and AIDS services in the four areas of greatest AIDS prevalence in the state to provide and establish culturally-appropriate therapeutic support groups and outpatient and in-home mental health services and to provide transportation to these services for children and youth. Contracts with such providers shall require collaboration between child mental health services and AIDS services in the design and delivery of these services to AIDS-affected children and their families. Eligibility is limited to children who lack private, third-party insurance that covers such services and whose family's income level is equal to or less than 250% of the federal poverty level, as

well as to children on Medicaid to the extent Medicaid does not wholly cover the services. The Commissioner shall conduct a training and outreach program designed to educate professionals in education, health, probate and juvenile law, and juvenile justice with regard to the program, the needs of children affected with AIDS and the importance of family centered culturally appropriate services. § 19a-121g.

Education (2), (3), (4), (5), (6)

Research (2)

Miscellaneous (2)

TESTING & REPORTING

(1) No person shall order the performance of an HIV-related test (see Definitions (1)) without first receiving written informed consent or oral informed consent which has been documented in the medical record of the test subject or a person authorized to consent for such individual. The consent of a parent or guardian shall not be necessary for the testing of a minor. No laboratory shall perform an HIV-related test without a written certification that informed consent has been obtained, or without written certification that testing without consent is authorized pursuant to an exception to this section. The laboratory analyzing the HIV test shall report the test result to the person who orders the performance of the test. Prior to obtaining informed consent, a person ordering the performance of an HIV-related test shall provide to the subject of the test an explanation of the nature of AIDS and HIV-related illness (see Definitions (1)) and information about behaviors known to pose risks for transmission of HIV. Informed consent shall include a statement provided to the subject of the test (or person authorized to consent for the subject), which includes at least the following: an explanation of the test, including its purpose, the meaning of its results, and the benefits of early diagnostic and medical intervention; acknowledgment that consent to an HIV test is not a precondition to receiving health care, but that refusal to consent may affect a health care provider's ability to diagnose and treat the illness; an explanation of the procedures to be followed, including that the test is voluntary, and a statement advising the subject on the availability of anonymous testing; and an explanation of the confidentiality protections afforded confidential HIV-related information. Such explanation shall specifically acknowledge that known partners of the protected individual may be warned of their potential risk of infection without identifying the protected individual and that the law permits the recording of HIV and AIDS-related information in medical records. When the HIV test is subsequent to a prior confirmed test and the subsequent test is part of a series of repeated testing for the purposes of medical monitoring and treatment, provided that the patient has previously given informed consent and been counseled as required by this section, the patient has declined reiteration of the of the specific informed consent, counseling and education requirements of this section and a notation to that effect has

been entered into the patient's medical record. § 19a-582.

(2) At the time of communicating the test result to the subject of the test, a person ordering the performance of an HIV-related test shall provide the subject of the test with counseling or referrals for counseling. § 19a-582.

(3) Informed consent and counseling are not required for the performance of HIV-related tests under the following circumstances: where the subject of the test is unable to grant or withhold consent and no other person is available who is authorized to consent for the test subject, and the test results are needed for diagnostic purposes to provide appropriate urgent care, except that in such cases the counseling and notification of test results as provided above shall be given as soon as it is practical; by a health care provider or health facility (see Definitions (1)) in relation to the procuring, processing, distributing, or use of a human body or body part for use in medical research or therapy, or for transplantation to individuals, provided the test results are communicated to the subject, and counseling is provided to the test subject; where the testing is performed for research purposes in a manner by which the identity of the test subject is not known and may not be retrieved by the researcher; on a deceased person when such test is conducted to determine the cause of death or for epidemiological purposes; in cases where a health care provider or other person in the course of occupational duties has had a significant exposure (see Definitions (1)); in correctional facilities if the facility physician determines that testing is needed for diagnostic purposes to determine the need for treatment or medical care specific to HIV-related illness; in correctional facilities if the facility physician and chief administrator of the facility determine that the behavior of the inmate poses a significant risk of transmission (see Definitions (1)) to another inmate or has resulted in a significant exposure to another inmate and that no reasonable alternative exists that will achieve the same goal; under a court order where the court finds a clear and imminent danger to the public health or the health of a person; or when the test is conducted by any life or health insurer or health care center for purposes of assessing a person's fitness for insurance coverage. § 19a-582.

(4) The personal medical records of persons examined or treated in a communicable disease control clinic (see Definitions (2)) shall be held strictly confidential by the local director of health and shall not be released, made public, or be subject to discovery proceedings except: for statistical purposes; with the informed consent of the person identified in the record; to health care providers in a medical emergency to the extent necessary to protect the health or life of the patient; to health care providers and public health officials authorized to receive such information in order to protect the public health or safety; to any agency authorized to receive reports of abuse or neglect of minors; or by court order as necessary to enforce statutes or provisions pertaining to public health or safety. Any violation of this shall result in a fine. § 19a-216a.

(5) Anyone who obtains confidential HIV-related information (see Definitions (1)) may disclose it only to the following: the protected individual (see Definitions (1)); a

person who secures a release of confidential HIV-related information; a health officer when such disclosure is mandated by law; a health care provider or health facility when knowledge of HIV-related information is necessary to provide appropriate care or treatment to the protected individual or when such confidential information is already recorded in a medical chart or record and a health care provider has access to such record for the purpose of providing medical care to the protected individual; a medical examiner to assist in determining the cause of death; health facility staff committees or accreditation or oversight review organizations which are conducting program monitoring or evaluation; a health care provider or other person who, in the course of occupational duties, has had a significant exposure to HIV; employees of mental hospitals if it is determined that the behavior of a patient poses a significant risk of transmission to another patient of the hospital; employees of correctional facilities where it has been determined that the behavior of an inmate poses a significant risk of transmission to another inmate or has resulted in a significant exposure of another inmate; any person allowed access to such information by a court order; life and health insurers, government payers and health care centers in connection with underwriting and claim activity for life, health, and disability benefits; or any health care provider specifically designated by the protected individual to receive such information. No person, except the protected individual, to whom confidential HIV-related information is

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disclosed may further disclose such information. § 19a-583.

(6) Whenever confidential HIV-related information is disclosed it shall be accompanied by a statement in writing, whenever possible, which includes the language:

This information has been disclosed to you from records whose confidentiality is protected by state law. State law prohibits you from making any further disclosure of it without the specific written consent of the person to whom it pertains or as otherwise permitted by said law. A general authorization for the release of medical or other information is NOT sufficient for this purpose.

§ 19a-585.

(7) A clinical laboratory which discovers a medical error made in the performance or reporting of an HIV-related test shall report such an error in person and provide counseling to the person ordering the test. Failure to comply with these provisions may be cause for suspension or revocation of a license to perform such tests. § 19a-30a.

(8) A public health officer may inform or warn partners of an individual that they may have been exposed to HIV under the following conditions: the public health officer reasonably believes there is a significant risk of transmission to the partner; the public health officer has counseled the protected individual regarding the need to notify the partner and the officer reasonably believes the protected individual will not inform the partner; and the public health officer has informed the protected individual that the

officer intends to make such a disclosure. When making such a disclosure, the officer shall provide or refer the individual to appropriate medical advice and counseling for coping with the emotional consequences of learning the information and for changing behavior to prevent transmission or contraction of HIV. The public health officer shall not disclose the identity of the protected individual. The public health officer shall have no obligation to warn, inform, identify or locate any partner. The provisions above apply to physicians as well. § 19a-584.

(9) Life and health insurers and health care facilities are not prohibited from disclosing a positive HIV-related test result to an organization which assembles or collects information about insurance applicants for the purposes of detecting fraud, misrepresentation, or nondisclosure in connection with insurance underwriting, if such result is provided as a nonspecific blood test result, within a general code category, which code is not designated solely for HIV-related test results and the majority of results included in the general code are not HIV-related, and which code does not otherwise allow members of the organization to reasonably identify an applicant's test result as an HIV-related test. § 19a-587.

(10) Any insurer that requests an applicant for insurance coverage take an HIV-related test shall obtain the applicant's written informed consent for such test before conducting it. § 19a-586.

(11) Any person who willfully violates any provision concerning AIDS testing shall be liable in a private cause of action for injuries suffered as a result of such violation. Compensatory damages shall be awarded upon a finding that the individual

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has been injured as a result of such violation. § 19a-590.

(12) When a pending case involves a sexual act (see Definitions (4)), a court may, before final disposition of such case, order HIV testing of the accused person. If the victim of the offense requests that the accused person be tested for HIV, the court may order the testing of the accused person, and the results may be disclosed to the victim. A report of the result of such examination or test shall be filed with the Department of Public Health and Addiction Services. A court entering a judgment of conviction or an adjudication of delinquency for a violation involving a sexual act shall, at the request of the victim of the crime, order that the offender be tested for HIV and that the results be disclosed to the victim and the offender. §§ 54-102a, 102b.

(13) Every obstetrician-gynecologist giving prenatal care to a pregnant woman shall notify her of the availability of AIDS testing. § 19a-593.

Criminal Law (1)

Education (5)

Research (2)

Social & Medical Services (7), (8)

MISCELLANEOUS

(1) Any taxpayer may contribute any part of a refund to the AIDS Research Education Account. The Commissioner of Revenue Services shall include in the instructions accompanying the tax return a description of the purposes for which the AIDS Research Education Account was created. A designated contribution of all or any part of a refund shall be irrevocable upon the filing of the tax return. § 12-743.

(2) The state shall provide reimbursement in the form of a grant-in-aid to municipalities for expenses incurred in connection with a one-time mass bulk-rate mailing of the United States Surgeon General's report on AIDS to all of its residents. § 19a-121d.

[1]

· Barrett v. Danbury Hosp., 654 A.2d 748, 756 (Conn. 1995) (“significant exposure” language does not create tort liability between a hospital and a patient).

[2]

· See Lampart v. State of Connecticut, No. 322668, 1995 Conn. Super. LEXIS 2976, at *5 (Super. Ct. Oct. 17, 1995) (legislature has mandated that the release of HIV-related information be narrowly circumscribed); Washington v. Meachum, No. 534616, 1995 Conn. Super. LEXIS 849 (Super Ct. Mar. 6, 1995) (Department of Corrections' monitoring of telephone calls does not violate AIDS testing and medical information statute).

[3]

· Doe v. Marselle, 660 A.2d 871, 875 (Conn. App. Ct. 1995), *appeal granted, in part, on other grounds* (Conn. 1995) (§ 19a-590 expressly creates a claim solely for willful violations of § 19a-583).