



**STATE OF ARIZONA**  
**DEPARTMENT OF INSURANCE**

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**Regulatory Bulletin 2003-05<sup>1</sup>**

**TO:** Insurance Institutions, Producers, Insurance Support Organizations,  
Insurance Trade Associations and Other Interested Parties

**FROM:** Charles R. Cohen  
Director of Insurance

**DATE:** May 14, 2003

**RE:** **AIDS/HIV Testing and Consent Form; Release of Related Information**

This Bulletin repeals and replaces Circular Letter 90-4A, issued on September 5, 1990.

A.R.S. §20-448.01(B) provides that no person may perform an HIV-related test without first receiving specific, written, informed consent in a form to be prescribed by the Director. The Department issued Circular Letter 90-4A, with an attached model HIV test consent form, before adopting final rules about health insurer practices relating to testing for HIV/AIDS. Final rules were adopted on March 7, 1994, and codified at A.A.C. R20-6-1201 et seq. A.A.C. R20-6-1203 contains specific requirements applicable to HIV test consent forms. The model consent form attached to Circular Letter 90-4A does not precisely conform to the requirements of the rule.

Attached is a revised model HIV test consent form that conforms to the requirements of A.A.C. R20-6-1203, including the requirement that the time period for the consent shall not exceed 180 days. A.A.C. R20-6-1203(C)(8). The model form is provided as a guide. Although no insurer is required to use this model form, any form that an insurer does use must comply with all aspects of A.A.C. R20-6-1203.

The Department also wishes to bring to your attention a related issue that often delays approval of an insurer's HIV test consent form. Insurers frequently submit application

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<sup>1</sup> This Substantive Policy Statement is advisory only. A Substantive Policy Statement does not include internal procedural documents that only affect the internal procedures of the Agency, and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona Administrative Procedure Act. If you believe that this Substantive Policy Statement does impose additional requirements or penalties on regulated parties, you may petition the agency under Arizona Revised Statutes Section 41-1033 for a review of the Statement.

forms that authorize disclosure of information for periods ranging from 24 to 30 months, with 30 months being the most common. A.A.C. R20-6-1204(B)(3) restricts an authorization for disclosure of HIV-related information by insurers to a period not to exceed 180 days. The Department will disapprove application forms that contain an authorization for an insurer to release HIV-related information more than 180 days after the date of the authorization.

Please direct any questions regarding this Bulletin to Dennis Babka of the Department's Life and Health Division, 602-912-8460, or [dbabka@id.state.az.us](mailto:dbabka@id.state.az.us).

NOTICE AND CONSENT FORM FOR AIDS VIRUS (HIV)  
ANTIBODY/ANTIGEN TESTING

INSURER NAME AND ADDRESS:

To evaluate your eligibility for insurance coverage, it is requested that you consent to be tested to determine the presence of antibodies or antigens to the Human Immunodeficiency Virus (HIV). By signing and dating this form, you agree that these tests may be performed and that underwriting decisions (for example, the decision to accept or reject your application) will be based on the test results. You may have ten (10) days to decide whether you wish to sign this form. You may refuse to be tested. However, such refusal may be used by the insurer as a reason to deny coverage. Please see below for additional counseling information.

INFORMATION ON HIV

HIV, the virus that causes AIDS, is transmitted from one person to another through blood, semen and vaginal fluids. The disease is spread primarily during anal, vaginal or oral intercourse, the sharing of needles and syringes used for shooting drugs, or from a mother to her unborn child. HIV is not spread through casual contact, such as eating with or touching a person infected with the virus. There is no medical evidence that HIV is spread by kissing.

Persons most at risk of contracting HIV are men who have sex with other men; intravenous ("IV) drug users; prostitutes (male or female); persons who have had many sexual partners since 1977; persons who received transfusions of blood or blood products prior to March, 1985; the sexual partners of persons in any of these groups; and infants born to infected mothers.

PRE-TEST COUNSELING CONSIDERATIONS

Many public health organizations have recommended that before taking an HIV antibody/antigen test a person seek counseling to become fully informed about the implications of such tests. You may wish to consider obtaining such counseling at your own expense prior to being tested. Free confidential counseling is available in most Arizona communities. If you need information about the availability of counseling in your area contact your county health department or:

Phoenix metropolitan area: 253-2437  
(Arizona AIDS Information Line)

Outside the Phoenix area: 1-800-334-1540  
(Arizona Department of Health Services)

DISCLOSURE OF TEST RESULTS

All test results will be treated confidentially. The results of the tests will be reported to the insurer identified on this form. Results of the tests will not be otherwise disclosed without your written consent except as required by law. Disclosure of HIV test results pertaining to your application for insurance is governed by A.R.S. §20-448.01.

MEANING OF POSITIVE TEST RESULTS

The most commonly used test is designed to detect the presence of antibodies to the virus. Antibodies are made by the body's immune system to fight infection. While positive HIV antibody test results do not mean that you have AIDS, they do indicate that you have been infected with HIV, the virus that causes AIDS.

Positive HIV antibody/antigen test results will adversely affect your application for insurance. This means that your application will probably be declined.

CONSENT

I have read and I understand this Notice and Consent Form. I voluntarily consent to testing and disclosure as described above. I understand that I have a right to request and receive a copy of this form. A photocopy of this form will be as valid as the original. I understand that the provisions of this consent form shall be effective for a period not to exceed 180 days from the date this form was signed by me or my legal representative.

\_\_\_\_\_  
Signature of Proposed Insured or Parent/Guardian

\_\_\_\_\_  
Date

OPTIONAL RELEASE OF INFORMATION TO PERSONAL PHYSICIAN

In addition to the release of information as described above, I hereby authorize the release of my HIV test results to my personal physician named below:

\_\_\_\_\_  
Physician's Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Signature of Proposed Insured or Parent/Guardian

\_\_\_\_\_  
Date

