



STATE OF ARIZONA
DEPARTMENT OF INSURANCE

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CHARLES R. COHEN
Director of Insurance

Former Director Susan Gallinger issued the following Circular Letter on September 5, 1990:

Circular Letter 90-4A

TO: ALL INSURANCE TRADE ASSOCIATIONS, INSURANCE MEDIA
PUBLICATIONS, AND INTERESTED PERSONS

FROM: SUSAN GALLINGER, DIRECTOR OF INSURANCE

DATE: SEPTEMBER 5, 1990

RE: **AIDS/HIV TESTING AND CONSENT FORM**

H.B. 2173, which becomes effective on September 27, 1990, mandates that the Department of Insurance draft rules to implement allowable tests and testing procedures, written consent to perform a human immunodeficiency virus ["HIV"] related test, procedures for confidentiality and disclosure of medical information, procedures for gathering underwriting information, and other rules that are reasonable and necessary to implement A.R.S. § 20-448.01. The Department is presently drafting these rules. The rules will consist primarily of the Department's current "AIDS Guidelines," which are now in effect, but will include some additional modifications as may be required by the new law.

Because the rule-making procedure is quite lengthy, and we do not anticipate adoption of the rules prior to the September 27, 1990 effective date of H.B. 2173, the Department of Insurance has prepared a model consent form for HIV testing, as required by A.R.S. § 20-448.01(B). Until adoption of the rules, insurers may choose to use the model consent form or may submit the forms they currently use to this Department for approval.

Attached is a copy of the model consent form. All concerned persons are invited to submit written comments regarding the model form to this Department. Such comments should be addressed to: Alexandra Shafer, Assistant Director, Arizona Department of Insurance, 2910 North 44th Street, 2nd Floor, Phoenix, Arizona 85018.

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: 234-2752
(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 or allowed 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 for HIV 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. About 50% of infected individuals have developed AIDS within 10 years after being infected with the virus.

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.

X _____
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

X _____
Signature of Proposed Insured

Date

Or Parent/Guardian

ATTACHMENT

PROPOSED R4-14-802. AIDS GUIDELINES

A. Definition.

1. "Insurer" as used in this Rule means life and disability insurers, hospital and medical service corporations and health care services organizations.

B. Insurers shall not use questions or applications for life and disability insurance policies or health care plans, that relate to:

1. the sexual orientation of an applicant;
2. an applicant's receipt of blood transfusions; or
3. whether or not an applicant has had any Acquired Immune Deficiency Syndrome (AIDS) related test except as provided in subsection C.

C. Applications for life or disability insurance policies or health care plans may include specific questions asking if the applicant has ever been diagnosed or treated for AIDS or AIDS-related conditions or tested positive for the presence of antibodies to the AIDS virus. No adverse underwriting decision shall be made on the basis of prior positive AIDS-related test(s) unless the insurer has verified that the prior tests consisted of both a positive screening test (enzyme linked immuno assay) and a positive supplemental test such as a Western Blot. All such tests used must be approved and licensed by the Food and Drug Administration with the interpretation of positivity as specified by the manufacturer(s).

D. An Insurer may test for infection by the AIDS virus in the same way that the insurer tests for other conditions that affect mortality and morbidity. When an applicant is required to take an AIDS-related test in connection with an application for a life or disability insurance policy or a health care plan, the insurer shall reveal the use of such test to the applicant, and shall obtain the written consent of the applicant prior to such testing. No adverse underwriting decision shall be made on the basis of a positive AIDS-related test unless the tests consist of both a positive screening test (enzyme linked immuno assay) and a positive supplemental test such as a Western Blot. All such tests used must be approved and licensed by the Food and Drug Administration with the interpretation of positivity as defined by the manufacturer(s). Results of such tests may not be released except as required by law or at the written request of the applicant.

E. Life or disability insurance policies or health care plans that provide benefits for prescription drugs shall provide benefits for Zidovudine, formerly Azidothymidine (AZT), to the same extent as other prescription drugs. Other drugs and forms of treatment are to be included as approved by the Food and Drug Administration.

F. Insurers shall not issue for delivery in Arizona any contracts which exclude AIDS or AIDS related conditions from coverage. Benefits for AIDS and AIDS related conditions shall be provided for in the same manner as are provided for all other diseases.