

/* Texas's communicable disease statutes include regulations on mandatory testing, investigation, and partner notification. There are also statutes dealing with health care workers, blood banks, medication programs, special care facilities, and state grants. It is presented in two parts. */

Art. 1.24C. Health Insurance Data Collection and Reporting

(a) It is the legislature's intent in adopting this article to assure that adequate health insurance and benefits coverage is available to the citizens of this state, to assure that adequate health care is available to protect the public health and safety, and to ascertain the continuing effect of HIV and AIDS on health insurance coverage and health benefits coverage availability and adequacy in this state for purposes of meeting the public's health coverage needs.

(b) In this article:

(1) "HIV" and "AIDS" have the meanings assigned by Section 81.101, Health and Safety Code.

(2) "Health insurance coverage" means any group policy, contract, or certificate of health insurance or benefits delivered, issued for delivery, or renewed in this state by an insurance company subject to Chapter 3 of this code, a group hospital service corporation under Chapter 20 of this code, a health maintenance organization under the Texas Health Maintenance Organization Act, and any self-insurance trust or mechanism providing health care benefits.

(3) "Board" means the State Board of Insurance.

(c) The board shall establish and maintain a program through which it can gather data and information relating to the effect of HIV and AIDS on the availability and adequacy of and the affordability of premiums and charges for medical reimbursement and health insurance coverage in this state.

(d) The board by rule may adopt reporting schedules, report forms, lists of information and data required to be reported, reporting procedures, guidelines, and criteria and may adopt any other rules necessary to carry out this article.

(e) The board shall compile the data and information included in reports required by this article into composite form and shall prepare at least annually a written report of the composite data and information and the board's analysis of the availability and adequacy of and the affordability of premiums and charges for health insurance coverage in this state. The board shall make the report available to the public and may charge a reasonable fee for the report to cover the costs in making the report available.

(f) The board may submit to the legislature written recommendations for legislation the board considers necessary to

resolve problems related to the impact of HIV and AIDS on the availability and adequacy of and the affordability of premiums and charges for health insurance coverage in this state.

(g) The board on request of the lieutenant governor, speaker of the house, or the chairman of a legislative committee shall provide to the legislature further composite data and information and analyses based on the reports required by this article, and these reports shall be available to the public as provided by Subsection (e) of this article for other reports.

(h) If the board determines that certain information or reports submitted under this article would reveal or might reveal the identity of any individual or associate specific individuals with a specific company, the board shall declare that information or those reports confidential and that information or those reports may not be made available to the public. Information made confidential under this article may be examined only by the members of the board, the commissioner of insurance, and employees of the board.

(i) Data and information reported by an insurer are not subject to public disclosure to the extent that the information is protected under the open records law, Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973. The data and information may be compiled into composite form and made public if information that could be used to identify the reporting insurer is removed.

Article 3.50-3

Excluding or limiting certain coverages prohibited

Sec. 4C. An institution, in contracting for group insurance or health maintenance organization coverage or in self-insuring its own coverage, may not contract for or provide in that coverage:

- (1) an exclusion or limitation on coverage or services for acquired immune deficiency syndrome, as defined by the Centers for Disease Control of the United States Public Health Service, or human immunodeficiency virus infection; or
- (2) provides coverage for serious mental illness that is less extensive than the coverage provided for any other physical illness.

Art. 3.51-5A. Local Governments Prohibited From Excluding or Limiting Certain Coverages

(a) A municipality, county, school district, district created under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution, or other political subdivision of the state that provides group health insurance coverage, health maintenance organization coverage, or self-insured health care coverage to

its officers or employees or to both its officers and employees may not contract for or provide coverage that:

(1) excludes or limits coverage or services for acquired immune deficiency syndrome, as defined by the Centers for Disease Control of the United States Public Health Service, or human immunodeficiency virus infection; or

(2) is less extensive for serious mental illness than the coverage provided for any other physical illness.

(b) For purposes of this article, "serious mental illness" means the following psychiatric illnesses as defined by the American Psychiatric Association in the Diagnostic and Statistical Manual (DSM) III-R:

(1) schizophrenia;

(2) paranoid and other psychotic disorders;

(3) bipolar disorders (mixed, manic, and depressive);

(4) major depressive disorders (single episode or recurrent);
and

(5) schizo-affective disorders (bipolar or depressive).

Art. 3.51-6

Coverage of HIV or AIDS related Illnesses

Sec. 3C. No group policy of accident, health, or accident and health insurance including group contracts issued by any hospital and medical service plan corporation subject to Chapter 20 of this code and health maintenance organization subject to Chapter 20A of this code shall be delivered or issued for delivery or renewed that excludes or denies coverage for HIV, AIDS, or HIV-related illnesses.

Art 3.70-3A. Cancellation Prohibited for HIV and AIDS

(a) Except as provided by Subsection (b) of this section, an insurer that delivers or issues for delivery an accident and sickness insurance policy in this state may not cancel that policy during its term because the insured has been diagnosed as having or has been or is being treated for HIV or AIDS as defined by Section 81.101, Health and Safety Code.

(b) An insurer may cancel an insurance policy covered by Subsection (a) of this section for fraud or misrepresentation in obtaining coverage by not disclosing a diagnosis of AIDS or HIV-related conditions or for failure to pay premiums when due.

22.023. Payment for Certain Insurance Coverage

(a) In this section, "AIDS" and "HIV" have the meanings assigned by Section 81.101, Health and Safety Code.

(b) Subject to the limitations in Subsection (c) of this section, the department may purchase and pay the premiums for a

conversion policy or other health insurance coverage for a person who is diagnosed as having AIDS, HIV, or other terminal or chronic illness and whose income level is less than 200 percent of the federal poverty level, based on the federal Office of Management and Budget poverty index in effect at the time coverage is provided, even though a person may be eligible for benefits under Chapter 32 of this code. Health insurance coverage for which premiums may be paid -under this section includes coverage purchased from an insurance company authorized to do business in this state, a group hospital services corporation operating under Chapter 20, Insurance Code, a health maintenance organization operating under the Texas Health Maintenance Organization Act, or an insurance pool created by the federal or state government or a political subdivision of the state.

(c) If a person is eligible for benefits under Chapter 32 of this code, the department may not purchase or pay premiums for a health insurance policy under this section if the premiums to be charged for the health insurance coverage are greater than premiums paid for benefits under Chapter 32 of this code. The department may not purchase or pay premiums for health insurance coverage under this section for a person at the same time that that person is covered by benefits under Chapter 32 of this code.

(d) The department shall pay for that coverage with money made available to it for that purpose.

(e) The board by rule may adopt necessary rules, criteria, and plans and may enter into necessary contracts to carry out this section.

35.03. Consent to Treatment by Minor

(a) A minor may consent to the furnishing of hospital, medical, surgical, and dental care by a licensed physician or dentist if the minor:

(3) consents to the diagnosis and treatment of any infectious, contagious or communicable disease which is required by law or regulation adopted pursuant to law to be reported by the licensed physician or dentist to a local health officer or the Texas Department of Health and including all sexually transmitted diseases;

(2) A physician, psychologist, counselor, or social worker licensed or certified by this state may, with or without the consent of a minor who is a client, advise the parents, managing conservator, or guardian of the minor of the treatment given or needed by the minor.

(6) A parent, managing conservator, or guardian is not obligated to compensate a physician, psychologist, counselor, or social worker for counseling services rendered under Subsection (g) of this section without the prior consent of the parent, managing conservator, or guardian.

157.006. Payments for Certain Health Insurance Coverage

(a) A hospital district created under Article IX of the Texas Constitution or a county may purchase and pay the premiums for a conversion policy or other health insurance coverage for a person who is diagnosed as having HIV or AIDS, or defined by Section 81.101, Health and Safety Code, or other terminal or chronic illness, who is unemployed, and whose income level is less than 200 percent of the federal poverty level, based on the federal Office of Management and Budget poverty index in effect at the time coverage is provided, even though that person may be eligible for benefits under Chapter 32, Human Resources Code, or a medical assistance program of the county or hospital district.

(b) Health insurance coverage for which premiums may be paid under this section includes coverage purchased from an insurance company authorized to do business in this state, a group hospital services corporation operating under Chapter 20, Insurance Code, a health maintenance organization operating under the Texas Health Maintenance Organization Act, or an insurance pool created by the federal or state government or a political subdivision of the state.

(c) The county or hospital district may provide for payment of premiums from unencumbered money available to it for that purpose.

(d) A county or hospital by order may adopt necessary rules, criteria, and plans and may enter into necessary contracts to carry out this section.

SUBCHAPTER C. REPORTS AND REPORTABLE DISEASES

81.041. Reportable Diseases

(a) The board shall identify each communicable disease or health condition that shall be reported under this chapter.

(b) The board shall classify each reportable disease according to its nature and the severity of its effect on the public health.

(c) The board shall maintain and revise as necessary the list of reportable diseases.

(d) The board may establish registries for reportable diseases and other communicable diseases and health conditions. The provision to the department of information relating to a communicable disease or health condition that is not classified as reportable is voluntary only.

(e) Acquired immune deficiency syndrome and human immunodeficiency virus infection are reportable diseases under this chapter for which the board shall require reports.

81.042. Persons REQUIRED to Report

(a) A report under Subsection (b), (c), or (d) shall be made to the local health authority or, if there is no local health authority, the regional director.

(b) A dentist or veterinarian licensed to practice in this state or a physician shall report, after the first professional encounter, a patient or animal examined that has or is suspected of having a reportable disease.

(c) A local school authority shall report a child attending school who is suspected of having a reportable disease. The board by rule shall establish procedures to determine if a child should be suspected and reported and to exclude the child from school pending appropriate medical diagnosis or recovery.

(d) A person in charge of a clinical or hospital laboratory, blood bank, mobile unit, or other facility in which a laboratory examination of a specimen derived from a human body yields microscopical, cultural, serological, or other evidence of a reportable disease shall report the findings, in accordance with this section and procedures adopted by the board, in the jurisdiction in which:

(1) the physician's office is located, if the laboratory examination was requested by a physician; or

(2) the laboratory is located, if the laboratory examination was not requested by a physician.

(e) The following persons shall report to the local health authority or the department a suspected case of a reportable disease and all information known concerning the person who has or is suspected of having the disease if a report is not made as required by Subsections (a)~(d):

(1) a professional registered nurse;

(2) an administrator or director of a public or private temporary or permanent child-care facility;

(3) an administrator or director of a nursing home, personal care home, maternity home, adult respite care center, or adult day-care center;

(4) an administrator of a home health agency;

(5) an administrator or health official of a public or private institution of higher education;

(6) an owner or manager of a restaurant, dairy, or other food handling or processing establishment or outlet;

(7) a superintendent, manager, or health official of a public or private camp, home, or institution;

(8) a parent, guardian, or householder;

- (9) a health professional; or
- (10) an administrator or health official of a penal or correctional institution.

81.043. Records and Reports of Health Authority and Regional Director

(a) Each health authority or regional director shall keep a record of each case of a reportable disease that is reported to the authority or director.

(b) A health authority or regional director shall report reportable diseases to the department's central office at least as frequently as the interval set by board rule.

81.044. Reporting Procedures

(a) The board shall prescribe the form and method of reporting under this chapter, which may be in writing, by telephone, by electronic data transmission, or by other means.

(b) The board may require the reports to contain any information relating to a case that is necessary for the purposes of this chapter, including:

- (1) the patient's name, address, age, sex, race, and occupation;
- (2) the date of onset of the disease or condition;
- (3) the probable source of infection; and
- (4) the name of the attending physician or dentist.

(c) The commissioner may authorize an alternate routing of information in particular cases if the commissioner determines that the reporting procedure would cause the information to be unduly delayed.

81.045. Reports of Death

(a) A physician who attends a person during the person's last illness shall immediately notify the health authority of the jurisdiction in which the person's death is pronounced or the department if the physician knows or suspects that the person died of a reportable disease or other communicable disease that the physician believes may be a threat to the public health.

(b) An attending physician or health authority, with consent of the survivors, may request an autopsy if the physician or health authority needs further information concerning the cause of death in order to protect the public health. The health authority shall order the autopsy to determine the cause of death if there are no survivors or the survivors withhold consent to the autopsy. The autopsy results shall be reported to the department.

(c) A justice of the peace acting as coroner or a county medical examiner in the course of an inquest under Chapter 49, Code of Criminal Procedure, who finds that a person's cause of death was a reportable disease or other communicable disease that the

coroner or medical examiner believes may be a threat to the public health shall immediately notify the health authority of the jurisdiction in which the finding is made or the department.

81.046. Confidentiality

(a) Reports, records, and information furnished to a health authority or the department that relate to cases or suspected cases of diseases or health conditions are confidential and may be used only for the purposes of this chapter.

(b) Reports, records, and information relating to cases or suspected cases of diseases or health conditions are not public information under Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973, and may not be released or made public on subpoena or otherwise except as provided by Subsections (c) and (d).

(c) Medical or epidemiological information may be released:

(1) for statistical purposes if released in a manner that prevents the identification of any person;

(2) with the consent of each person identified in the information;

(3) to medical personnel, appropriate state agencies, or county and district courts to comply with this chapter and related rules relating to the control and treatment of communicable diseases and health conditions;

(4) to appropriate federal agencies, such as the Centers for Disease Control of the United States Public Health Service, but the information must be limited to the name, address, sex, race, and occupation of the patient, the date of disease onset, the probable source of infection, and other requested information relating to the case or suspected case of a communicable disease or health condition; or

(5) to medical personnel to the extent necessary in a medical emergency to protect the health or life of the person identified in the information.

(d) In a case of sexually transmitted disease involving a minor under 13 years of age, information may not be released, except that the child's name, age, and address and the name of the disease may be released to appropriate agents as required by Chapter 34, Family Code. If that information is required in a court proceeding involving child abuse, the information shall be disclosed in camera.

(e) A state or public health district officer or employee, local health department officer or employee, or health authority may not be examined in a civil, criminal, special, or other proceeding as to the existence or contents of pertinent records of, or reports or information about, a person examined or treated for a reportable disease by the public health district, local

health department, or health authority without that person's consent.

81.047. Epidemiological Reports

Subject to the confidentiality requirements of this chapter, the department shall require epidemiological reports of disease outbreaks and of individual cases of disease suspected or known to be of importance to the public health. The department shall evaluate the reports to determine the trends involved and the nature and magnitude of the hazards.

81.048. Notification of Emergency Personnel, Peace Officers, and Fire Fighters

(a) The board shall:

(1) designate certain reportable diseases for notification under this section; and

(2) define the conditions that constitute possible exposure to those diseases.

(b) Notice of a positive test result for a reportable disease designated under Subsection (a) shall be given to an emergency medical service personnel, peace officer, or fire fighter as provided by this section if:

(1) the emergency medical service personnel, peace officer, or fire fighter delivered a person to a hospital as defined by Section 1.03, Medical Liability and Insurance Improvement Act of Texas;

(2) the hospital has knowledge that the person has a reportable disease and has medical reason to believe that the person had the disease when the person was admitted to the hospital; and

(3) the emergency medical service personnel, peace officer, or fire fighter was exposed to the reportable disease during the course of duty.

(c) Notice of the possible exposure shall be given:

(1) by the hospital to the local health authority;

(2) by the local health authority to the director of the appropriate department of the entity that employs the emergency medical service personnel, peace officer, or fire fighter; and

(3) by the director to the employee affected.

(d) A person notified of a possible exposure under this section shall maintain the confidentiality of the information as provided by this chapter.

(e) A person is not liable for good faith compliance with this section.

(f) This section does not create a duty for a hospital to perform a test that is not necessary for the medical management of the person delivered to the hospital.

81.049. Failure to Report; Criminal Penalty

(a) A person commits an offense if the person knowingly fails to report a reportable disease or health condition under this subchapter.

(b) An offense under this section is a Class B misdemeanor.

81.050. Mandatory Testing of Persons Suspected of Exposing Certain Other Persons to Reportable Diseases, Including HIV Infection

(a) The board by rule shall prescribe the criteria that constitute exposure to reportable diseases, including HIV infection. The criteria must be based on activities that the United States Public Health Service determines pose a risk of infection.

(b) A person whose occupation or whose volunteer service is included in one or more of the following categories may request the department or a health authority to order testing of another person who may have exposed the person to a reportable disease, including HIV infection:

- (1) a law enforcement officer;
- (2) a fire fighter;
- (3) an emergency medical service employee or paramedic; or
- (4) a correctional officer.

(c) A request under this section may be made only if the person:

- (1) has experienced the exposure in the course of the person's employment or volunteer service;

- (2) believes that the exposure places the person at risk of a reportable disease, including HIV infection; and

- (3) presents to the department or health authority a sworn affidavit that delineates the reasons for the request.

(d) The department or the department's designee who meets the minimum training requirements prescribed by board rule shall review the person's request and inform the person whether the request meets the criteria establishing risk of infection with a reportable disease, including HIV infection.

(e) The department or the department's designee shall give the person who is subject to the order prompt and confidential written notice of the order. The order must:

- (1) state the grounds and provisions of the order, including the factual basis for its issuance;

- (2) refer the person to appropriate health care facilities where the person can be tested for reportable diseases, including HIV infection; and

- (3) inform the person who is subject to the order of that person's right to refuse to be tested and the authority of the department or health authority to ask for a court order requiring

the test.

(f) If the person who is subject to the order refuses to comply, the prosecuting attorney who represents the state in district court, on request of the department or the department's designee, shall petition the district court for a hearing on the order. The person who is subject to the order has the right to an attorney at the hearing, and the court shall appoint an attorney for a person who cannot afford legal representation. The person may not waive the right to an attorney unless the person has consulted with an attorney.

(g) In reviewing the order, the court shall determine whether exposure occurred and whether that exposure presents a possible risk of infection as defined by board rule. The attorney for the state and the attorney for the person subject to the order may introduce evidence at the hearing in support of or opposition to the testing of the person. On conclusion of the hearing, the court shall either issue an appropriate order requiring counseling and testing of the person for reportable diseases, including HIV infection, or refuse to issue the order if the court has determined that the counseling and testing of the person is unnecessary. The court may assess court costs against the person who requested the test if the court finds that there was not reasonable cause for the request.

(h) The department or the department's designee shall inform the person who requested the order of the results of the test. If the person subject to the order is found to have a reportable disease, the department or the department's designee shall inform that person and the person who requested the order of the need for medical follow-up and counseling services. The department or the department's designee shall develop protocols for coding test specimens to ensure that any identifying information concerning the person tested will be destroyed as soon as the testing is complete.

(i) HIV counseling and testing conducted under this section must conform to the model protocol on HIV counseling and testing prescribed by the department.

(j) For the purpose of qualifying for workers' compensation or any other similar benefits for compensation, an employee who claims a possible work-related exposure to a reportable disease, including HIV infection, must provide the employer with a sworn affidavit of the date and circumstances of the exposure and document that, not later than the 10th day after the date of the exposure, the employee had a test result that indicated an absence of the reportable disease, including HIV infection.

(k) A person listed in Subsection (b) who may have been exposed to a reportable disease, including HIV infection, may not be required to be tested.

(1) In this section "HIV" and "test result" have the meanings assigned by Section 81.101.

81.051. Partner Notification Programs; HIV Infection

(a) The department shall establish programs for partner notification and referral services.

(b) The partner notification services offered by health care providers participating in a program shall be made available and easily accessible to all persons with clinically validated HIV seropositive status.

(c) If a person with HIV infection voluntarily discloses the name of a partner, that information is confidential. Partner names may be used only for field investigation and notification.

(d) An employee of a partner notification program shall make the notification. The employee shall inform the person who is named as a partner of the:

(1) methods of transmission and prevention of HIV infection;
(2) telephone numbers and addresses of HIV antibody testing sites; and (3) existence of local HIV support groups, mental health services, and medical facilities.

(e) The employee may not disclose:

(1) the name of or other identifying information concerning the identity of the person who gave the partner's name; or
(2) the date or period of the partner's exposure.

(f) If the person with HIV infection also makes the notification, the person should provide the information listed in Subsection (d).

(g) A partner notification program shall provide counseling, testing, or referral services to a person with HIV infection regardless of whether the person discloses the names of any partners.

(h) A partner notification program shall routinely evaluate the performance of counselors and other program personnel to ensure that high quality services are being delivered. A program shall adopt quality assurance and training guidelines according to recommendations of the Centers for Disease Control of the United States Public Health Service for professionals participating in the program.

(i) In this section, "HIV" has the meaning assigned by Section 81.101.

81.052. Reports and Analyses Concerning AIDS and HIV Infection

(a) The department shall ensure timely and accurate reporting under this chapter of information relating to acquired immune deficiency syndrome and human immunodeficiency virus infection.

(b) The department shall routinely analyze and determine trends in incidence and prevalence of AIDS and HIV infection by region,

age, gender, race, ethnicity, transmission category, and other factors as appropriate.

(c) The department shall annually project the number of AIDS cases expected in this state based on the reports.

(d) The department shall make available epidemiologic projections and other analyses, including comparisons of Texas and national trends, to state and local agencies for use in planning, developing, and evaluating AIDS and HIV-related programs and services.

SUBCHAPTER D. INVESTIGATION AND INSPECTION

81.061. Investigation

(a) The department shall investigate the causes of communicable disease and methods of prevention.

(b) The department may require special investigations of specified cases of disease to evaluate the status in this state of epidemic, endemic, or sporadic diseases. Each health authority shall provide information on request according to the department's written instructions.

(c) The department may investigate the existence of communicable disease in the state to determine the nature and extent of the disease and to formulate and evaluate the control measures used to protect the public health. A person shall provide records and other information to the department on request according to the department's written instructions.

81.062. Witnesses; Documents

(a) For the purpose of an investigation under Section 81.061(c), the department may administer oaths, summon witnesses, and compel the attendance of a witness or the production of a document. The department may request the assistance of a county or district court to compel the attendance of a summoned witness or the production of a requested document at a hearing.

(b) A witness or deponent who is not a party and who is subpoenaed or otherwise compelled to appear at a hearing or proceeding under this section conducted outside the witness's or deponent's county of residence is entitled to a travel and per diem allowance. The board by rule shall set the allowance in an amount not to exceed the travel and per diem allowance authorized for state employees traveling in this state on official business.

81.063. Samples

(a) A person authorized to conduct an investigation under this subchapter may take samples of materials present on the premises, including soil, water, air, unprocessed or processed foodstuffs, manufactured clothing, pharmaceuticals, and household goods.

(b) A person who takes a sample under this section shall offer a

corresponding sample to the person in control of the premises for independent analysis.

(c) A person who takes a sample under this section may reimburse or offer to reimburse the owner for the materials taken. The reimbursement may not exceed the actual monetary loss to the owner.

81.064. Inspection

(a) The commissioner, the commissioner's designee, a health authority, or a health authority's designee may enter at reasonable times and inspect within reasonable limits a public place in the performance of that person's duty to prevent or control the entry into or spread in this state of communicable disease by enforcing this chapter or the rules of the board adopted under this chapter.

(b) In this section, "a public place" means all or any portion of an area, building or other structure, or conveyance that is not used for private residential purposes, regardless of ownership.

81.065. Right of Entry

For an investigation or inspection, the commissioner, an employee of the department, or a health authority has the right of entry on land or in a building, vehicle, watercraft, or aircraft and the right of access to an individual, animal, or object that is in isolation, detention, restriction, or quarantine instituted by the commissioner, an employee of the department, or a health authority or instituted voluntarily on instructions of a private physician.

81.066. Concealing Communicable Disease or Exposure to Communicable Disease; Criminal Penalty

(a) A person commits an offense if the person knowingly conceals or attempts to conceal from the board, a health authority, or a peace officer, during the course of an investigation under this chapter, the fact that:

(1) the person has, has been exposed to, or is the carrier of a communicable disease that is a threat to the public health; or

(2) a minor child or incompetent adult of whom the person is a parent, managing conservator, or guardian has, has been exposed to, or is the carrier of a communicable disease that is a threat to the public health.

(b) An offense under this section is a Class B misdemeanor.

81.067. Concealing, Removing, or Disposing of an Infected or Contaminated Animal, Object, Vehicle, Watercraft, or Aircraft; Criminal Penalty

(a) A person commits an offense if the person knowingly conceals, removes, or disposes of an infected or contaminated animal, object, vehicle, watercraft, or aircraft that is the subject of an investigation under this chapter by the board, a health authority, or a peace officer.

(b) An offense under this Section is a Class B misdemeanor.

81.068. Refusing Entry; Criminal Penalty

(a) A person commits an offense if the person knowingly refuses or attempts to refuse entry to the board, a health authority, or a peace officer on presentation of a valid search warrant to investigate, inspect, or take samples on premises controlled by the person or by an agent of the person acting on the person's instruction.

(b) An offense under this section is a Class A misdemeanor.

SUBCHAPTER E. CONTROL

81.081. Board's Duty

The board shall impose control measures to prevent the spread of disease in the exercise of its power to protect the public health.

81.082. Administration of Control Measures

(a) A health authority has supervisory authority and control over the administration of communicable disease control measures in the health authority's jurisdiction unless specifically preempted by the board. Control measures imposed by a health authority must be consistent with, and at least as stringent as, the control measure standards in rules adopted by the board.

(b) A communicable disease control measure imposed by a health authority in the health authority's jurisdiction may be amended, revised, or revoked by the board if the board finds that the modification is necessary or desirable in the administration of a regional or statewide public health program or policy. A control measure imposed by the department may not be modified or discontinued until the department authorizes the action.

(c) The control measures may be imposed on an individual, animal, place, or object, as appropriate.

(d) In this section, "control measures" includes:

- (1) immunization;
- (2) detention;
- (3) restriction;
- (4) disinfection;
- (5) decontamination;
- (6) isolation;
- (7) quarantine;
- (8) disinfestation;

- (9) chemoprophylaxis;
- (10) preventive therapy;
- (11) prevention; and
- (12) education.

81.083. Application of Control Measures to Individual

(a) Any person, including a physician, who examines or treats an individual who has a communicable disease shall instruct the individual about:

- (1) measures for preventing reinfection and spread of the disease; and
- (2) the necessity for treatment until the individual is cured or free from the infection.

(b) If the department or a health authority has reasonable cause to believe that an individual is ill with, has been exposed to, or is the carrier of a communicable disease, the department or health authority may order the individual, or the individual's parent, legal guardian, or managing conservator if the individual is a minor, to implement control measures that are reasonable and necessary to prevent the introduction, transmission, and spread of the disease in this state.

(c) An order under this section must be in writing and be delivered personally or by registered or certified mail to the individual or to the individual's parent, legal guardian, or managing conservator if the individual is a minor.

(d) An order under this section is effective until the individual is no longer infected with a communicable disease or, in the case of a suspected disease, expiration of the longest usual incubation period for the disease.

(e) An individual may be subject to court orders under Subchapter G if:

- (1) the individual, or the individual's parent, legal guardian, or managing conservator if the individual is a minor, does not comply with the written orders of the department or a health authority under this section; and
- (2) the individual is infected or is reasonably suspected of being infected with a communicable disease that presents an immediate threat to the public health.

(f) An individual who is the subject of court orders under Subchapter G shall pay the expense of the required medical care and treatment except as provided by Subsections (g)-(i).

(g) A county or hospital district shall pay the medical expenses of a resident of the county or hospital district who is:

- (1) indigent and without the financial means to pay for part or all of the required medical care or treatment; and
- (2) not eligible for benefits under an insurance contract, group policy, or prepaid health plan, or benefits provided by a

federal, state, county, or municipal medical assistance program or facility.

(h) The state may pay the medical expenses of a nonresident individual who is:

(1) indigent and without the financial means to pay for part or all of the required medical care and treatment; and

(2) not eligible for benefits under an insurance contract, group policy, or prepaid health plan, or benefits provided by a federal, state, county, or municipal medical assistance program.

(i) The provider of the medical care and treatment under Subsection (h) shall certify the reasonable amount of the required medical care to the comptroller. The comptroller shall issue a warrant to the provider of the medical care and treatment for the certified amount.

(j) The department may:

(1) return a nonresident individual involuntarily hospitalized in this' state to the program agency in the state in which the individual resides; and

(2) enter into reciprocal agreements with the proper agencies of other states to facilitate the return of individuals involuntarily hospitalized in this state.

TEXAS, part 3

81.084. Application of Control Measures to Property

(a) If the department or a health authority has reasonable cause to believe that property in its jurisdiction is or may be infected or contaminated with a communicable disease, the department or health authority may place the property in quarantine for the period necessary for a medical examination or technical analysis of samples taken from the property to determine if the property is infected or contaminated. The department or health authority may tag an object for identification with a notice of possible infection or contamination.

(b) The department or health authority shall send notice of its action by registered or certified mail to the person who owns or controls the property. If the property is land or a structure or an animal or other property on the land, the department or health authority shall also post the notice on the land and on the courthouse door.

(c) The department or health authority shall remove the quarantine and return control of the property to the person who owns or controls it if the property is found not to be infected or contaminated. The department or health authority by written order may require the person who owns or controls the property to impose control measures that are technically feasible to

disinfect or decontaminate the property if the property is found to be infected or contaminated.

(d) The department or health authority shall remove the quarantine and return control of the property to the person who owns or controls it if the control measures are effective. If the control measures are ineffective or if there is not a technically feasible control measure available for use, the department or health authority may continue the quarantine and order the person who owns or controls the property:

(1) to destroy the property, other than land, in a manner that disinfects or decontaminates the property to prevent the spread of infection or contamination;

(2) if the property is land, to securely fence the perimeter of the land or any part of the land that is infected or contaminated; or

(3) to securely seal off an infected or contaminated structure or other property on land to prevent entry into the infected or contaminated area until the quarantine is removed by the board or health authority.

(e) The department or health authority may petition the county or district court of the county in which the property is located for orders necessary for public health if:

(1) a person fails or refuses to comply with the orders of the department or health authority as required by this section; and

(2) the department or health authority has reason to believe that the property is or may be infected or contaminated with a communicable disease that presents an immediate threat to the public health.

(f) After the filing of a petition, the court may grant injunctive relief for the health and safety of the public.

(g) The person who owns or controls the property shall pay all expenses of implementing control measures, court costs, storage, and other justifiable expenses. The court may require the person who owns or controls the property to execute a bond in an amount set by the court to ensure the performance of any control measures, restoration, or destruction ordered by the court. If the property is an object, the bond may not exceed the value of the object in a noninfected or noncontaminated state. The bond shall be returned to the person when the department or health authority informs the court that the property is no longer infected or contaminated or that the property has been destroyed.

(h) If the court finds that the property is not infected or contaminated, it shall order the department or health authority to:

(1) remove the quarantine;

(2) if the property is an object, remove the quarantine tags;
and

(3) release the property to the person who owns or controls it.

(i) The department or health authority, as appropriate, shall charge the person who owns or controls the property for the cost of any control measures performed by the department's or health authority's employees. The department shall deposit the payments received to the credit of the general revenue fund to be used for the administration of this chapter. A health authority shall distribute payments received to each county, municipality, or other jurisdiction in an amount proportional to the jurisdiction's contribution to the quarantine and control expense.

(j) In this section, "property" means:

(1) an object;

(2) a parcel of land; or

(3) a structure, animal, or other property on a parcel of land.

Title:

81.085. Area Quarantine; Criminal Penalty

(a) If an outbreak of communicable disease occurs in this state, the commissioner or one or more health authorities may impose an area quarantine coexistent with the affected area. A health authority may impose the quarantine only within the boundaries of the health authority's jurisdiction.

(b) A health authority may not impose an area quarantine until the authority consults with and obtains the approval of the commissioner and of the governing body of each county and municipality in the health authority's jurisdiction that has territory in the affected area.

(c) Absent preemptive action by the board under this chapter or by the governor under Chapter 418, Government Code, a health authority may impose in a quarantine area under the authority's jurisdiction additional disease control measures that the health authority considers necessary and most appropriate to arrest, control, and eradicate the threat to the public health.

(d) If an affected area includes territory in an adjacent state, the department may enter into cooperative agreements with the appropriate officials or agencies of that state to:

(1) exchange morbidity, mortality, and other technical information;

(2) receive extrajurisdictional inspection reports;

(3) coordinate disease control measures;

(4) disseminate instructions to the population of the area, operators of interstate private or common carriers, and private vehicles in transit across state borders; and

(5) participate in other public health activities appropriate to arrest, control, and eradicate the threat to the public health.

(e) The department or health authority may use all reasonable

means of communication to inform persons in the quarantine area of the board's or health authority's orders and instructions during the period of area quarantine. The department or health authority shall publish at least once each week during the area quarantine period, in a newspaper of general circulation in the area, a notice of the orders or instructions in force with a brief explanation of their meaning and effect. Notice by publication is sufficient to inform persons in the area of their rights, duties, and obligations under the orders or instructions.

(f) The commissioner or, with the commissioner's consent, a health authority may terminate an area quarantine.

(g) To provide isolation and quarantine facilities during an area quarantine, the commissioner's court of a county, the governing body of a municipality, or the governing body of a hospital district may suspend the admission of patients desiring admission for elective care and treatment, except for needy or indigent residents for whom the county, municipality, or district is constitutionally or statutorily required to care.

(h) A person commits an offense if the person knowingly fails or refuses to obey a rule, order, or instruction of the board or an order or instruction of a health authority issued under a board rule and published during an area quarantine under this section. An offense under this subsection is a felony of the third degree.

81.086. Application of Control Measures to Private and Common Carriers and Private Conveyances

(a) This section applies to any private or common carrier or private conveyance, including a vehicle, aircraft, or watercraft, while the vehicle or craft is in this state.

(b) If the department or health authority has reasonable cause to believe

that a carrier or conveyance has departed from or traveled through an area infected or contaminated with a communicable disease, the department or health authority may order the owner, operator, or authorized agent in control of the carrier or conveyance to:

(1) stop the carrier or conveyance at a port of entry or place of first landing or first arrival in this state; and

(2) provide a statement in a form approved by the board that includes information required by board rules, including information on passengers and cargo manifests, and that includes the details of:

(A) any illness suspected of being communicable that occurred during the journey;

(B) any condition on board the carrier or conveyance during the journey that may lead to the spread of disease; and

(C) any control measures imposed on the carrier or conveyance,

its passengers or crew, or its cargo or any other object on board during the journey.

(c) The department or health authority may impose necessary technically feasible control measures under Section 81.083 or 81.084 to prevent the introduction and spread of communicable disease in this state if the department or health authority, after inspection, has reasonable cause to believe that a carrier or conveyance that has departed from or traveled through an infected or contaminated area:

(1) is or may be infected or contaminated with a communicable disease;

(2) has cargo or an object on board that is or may be infected or contaminated with a communicable disease; or

(3) has an individual on board who has been exposed to, or is the carrier of, a communicable disease.

(d) The owner or operator of a carrier or conveyance placed in quarantine by order of the department or health authority, or of a county or district court under Section 81.083 or 81.084, shall bear the expense of the control measures employed to disinfect or decontaminate the carrier or conveyance. The department or health authority, as appropriate, shall charge and be reimbursed for the cost of control measures performed by the department or health authority's employees. The board shall deposit the reimbursements to the credit of the general revenue fund to be used to administer this chapter. A health authority shall distribute the reimbursements to each county, municipality, or other governmental entity in an amount proportional to that entity's contribution to the quarantine and control expense.

(e) The owner or claimant of cargo or an object on board the carrier or conveyance shall pay the expense of the control measures employed in the manner provided by Section 81.084. The cost of services rendered or provided by the board or health authority is subject to reimbursement as provided by Subsection (d).

(f) A crew member, passenger, or individual on board the carrier or conveyance shall pay the expense of control measures employed under Section 81.083. The state may pay the expenses of an individual who is:

(1) without the financial means to pay for part or all of the required medical care or treatment; and

(2) not eligible for benefits under an insurance contract, group policy, or prepaid health plan, or benefits provided by a federal, state, or local medical assistance program, as provided by Section 81.083.

(g) A carrier, a conveyance, cargo, an object, an animal, or an individual placed in quarantine under this section may not be removed from or leave the area of quarantine without the

department's or health authority's permission.

(h) If the department or health authority has reasonable cause to believe that a carrier or conveyance is transporting cargo or an object that is or may be infected or contaminated with a communicable disease, the department or health authority may:

(1) require that the cargo or object be transported in secure confinement or sealed in a car, trailer, hold, or compartment, as appropriate, that is secured on the order and instruction of the board or health authority, if the cargo or object is being transported through this state;

(2) require that the cargo or object be unloaded at an alternate location equipped with adequate investigative and disease control facilities if the cargo or object is being transported to an intermediate or ultimate destination in this state that cannot provide the necessary facilities; and

(3) investigate and, if necessary, quarantine the cargo or object and impose any required control measure as authorized by Section 81.084.

(i) The department or health authority may require an individual transported by carrier or conveyance who the department or health authority has reasonable cause to believe has been exposed to or is the carrier of a communicable disease to be isolated from other travelers and to disembark with the individual's personal effects and baggage at the first location equipped with adequate investigative and disease control facilities, whether the person is in transit through this state or to an intermediate or ultimate destination in this state. The department or health authority may investigate and, if necessary, isolate or involuntarily hospitalize the individual until the department or health authority approves the discharge as authorized by Section 81.084.

81.087. Violation of Control Measure Orders; Criminal Penalty

(a) A person commits an offense if the person knowingly refuses to perform or allow the performance of certain control measures ordered by a health authority or the department under Sections 81.083-81.086.

(b) An offense under this section is a Class B misdemeanor.

81.088. Removal, Alteration, or Destruction of Quarantine Devices; Criminal Penalty

(a) A person commits an offense if the person knowingly or intentionally:

(1) removes, alters, or attempts to remove or alter an object the person knows is a quarantine device in a manner that diminishes the device's effectiveness; or

(2) destroys an object the person knows is a quarantine device.

(b) An offense under this section is a Class B misdemeanor.

81.089. Transportation; Criminal Penalty

(a) A person commits an offense if, before notifying the board or health authority at a port of entry or a place of first landing or first arrival in this state, the person knowingly or intentionally:

(1) transports or causes to be transported into this state an object the person knows or suspects may be infected or contaminated with a communicable disease that is a threat to the public health;

(2) transports or causes to be transported into this state an individual who the person knows has or is the carrier of a communicable disease that is a threat to the public health; or

(3) transports or causes to be transported into this state a person, animal, or object in a private or common carrier or a private conveyance that the person knows is or suspects may be infected or contaminated with a communicable disease that is a threat to the public health.

(b) An offense under this section is a Class A misdemeanor, except that if the person acts with the intent to harm or defraud another, the offense is a felony of the third degree.

81.090. Serologic Testing During Pregnancy

(a) A physician or other person permitted by law to attend a pregnant woman during gestation or at delivery of an infant shall:

(1) take or cause to be taken a sample of the woman's blood at the first examination and visit;

(2) submit the sample to a laboratory approved under this section for a standard serologic test for syphilis approved by the board; and

(3) retain a report of each case for nine months and deliver the report to any successor in the case.

(b) A successor is presumed to have complied with this section.

(c) A physician or other person in attendance at a delivery shall:

(1) take or cause to be taken a sample of blood from the mother or from the umbilical cord of the infant within 24 hours of delivery; and

(2) submit the sample to a laboratory approved under this section for a standard serologic test for syphilis approved by the board.

CHAPTER 85. ACQUIRED IMMUNE DEFICIENCY SYNDROME AND HUMAN IMMUNODEFICIENCY VIRUS INFECTION

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SUBCHAPTER A. GENERAL PROVISIONS AND EDUCATION PROGRAMS

85.001. Short Title

This chapter may be cited as the Human Immunodeficiency Virus Services Act.

85.002. Definitions

In this chapter:

(1) "AIDS" means acquired immune deficiency syndrome as defined by the Centers for Disease Control of the United States Public Health Service.

(2) "Communicable disease" has the meaning assigned by Section 81.003 (Communicable Disease Prevention and Control Act).

(3) "Contact tracing" means identifying all persons who may have been exposed to an infected person and notifying them that they have been exposed, should be tested, and should seek treatment.

(4) "HIV" means human immunodeficiency virus.

(5) "State agency" means:

(A) a board, commission, department, office, or other agency that is in the executive branch of state government and that was created by the Texas Constitution or a state statute and includes an institution of higher education as defined by Section 61.003, Education Code;

(B) the legislature or a legislative agency; and

(C) the supreme court, the court of criminal appeals, a court of appeals, the State Bar of Texas, or another state judicial agency.

(6) "Testing program" means a medical program to test for AIDS, HIV infection, antibodies to HIV, or infection with any other probable causative agent of AIDS.

85.003. Department as Primary Resource

The department is the primary resource for HIV education, prevention, risk reduction materials, policies, and information in this state.

85.004. Education Programs

(a) The department shall develop model education programs to be available to educate the public about AIDS and HIV infection.

(b) As part of the programs, the department shall develop a model educational pamphlet about methods of transmission and prevention of HIV infection, about state laws relating to the transmission, and to conduct that may result in the transmission of HIV.

(c) The programs must be scientifically accurate and factually

correct and designed to:

- (1) communicate to the public knowledge about methods of transmission and prevention of HIV infection;
- (2) educate the public about transmission risks in social, employment, and educational situations;
- (3) educate health care workers and health facility employees about methods of transmission and prevention in their particular workplace environments; and
- (4) educate the public about state laws relating to the transmission and conduct that may result in the transmission of HIV.