

# KANSAS



## State HIV/AIDS Statutes and Regulations 2010

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# Statutes

**65-6001**

**Chapter 65.--PUBLIC HEALTH**

**Article 60.--ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS) AND HEPATITIS B; OTHER INFECTIOUS DISEASE**

**65-6001.** Definitions. As used in K.S.A. 65-6001 to 65-6007, inclusive, and K.S.A. 65-6008, 65-6009 and 65-6010, and amendments thereto, unless the context clearly requires otherwise:

- (a) "AIDS" means the disease acquired immune deficiency syndrome.
- (b) "HIV" means the human immunodeficiency virus.
- (c) "Laboratory confirmation of HIV infection" means positive test results from a confirmation test approved by the secretary.
- (d) "Secretary" means the secretary of health and environment.
- (e) "Physician" means any person licensed to practice medicine and surgery.
- (f) "Laboratory director" means the person responsible for the professional, administrative, organizational and educational duties of a laboratory.
- (g) "HIV infection" means the presence of HIV in the body.
- (h) "Racial/ethnic group" shall be designated as either white, black, Hispanic, Asian/Pacific islander or American Indian/Alaskan Native.
- (i) "Corrections officer" means an employee of the department of corrections as defined in subsections (f) and (g) of K.S.A. 75-5202, and amendments thereto.
- (j) "Emergency services employee" means an attendant or first responder as defined under K.S.A. 65-6112, and amendments thereto, or a firefighter.
- (k) "Law enforcement employee" means:
  - (1) Any police officer or law enforcement officer as defined under K.S.A. 74-5602, and amendments thereto;
  - (2) any person in the service of a city police department or county sheriff's office who performs law enforcement duties without pay and is considered a reserve officer;
  - (3) any person employed by a city or county who is in charge of a jail or section of jail, including jail guards and those who conduct searches of persons taken into custody; or
  - (4) any person employed by a city, county or the state of Kansas who works as a scientist or technician in a forensic laboratory.
- (l) "Employing agency or entity" means the agency or entity employing a corrections officer, emergency services employee, law enforcement employee or jailer.
- (m) "Infectious disease" means AIDS.
- (n) "Infectious disease tests" means tests approved by the secretary for detection of infectious diseases.
- (o) "Juvenile correctional facility staff" means an employee of the juvenile justice authority working in a juvenile correctional facility as defined in K.S.A. 2008 Supp. 38-2302, and amendments thereto.

History: L. 1988, ch. 232, § 1; L. 1990, ch. 234, § 1; L. 1996, ch. 215, § 1; L. 1998, ch. 187, § 12; L. 1999, ch. 109, § 1; L. 2006, ch. 169, § 119; Jan. 1, 2007.

**65-6002**

**Chapter 65.--PUBLIC HEALTH**

**Article 60.--ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS) AND HEPATITIS B; OTHER INFECTIOUS DISEASE**

**65-6002.** Reporting to secretary of health and environment information concerning AIDS or HIV infection; information reported, when; persons reporting; immunity from liability; confidentiality of information; disclosure; use of information to discriminate prohibited.

(a) Whenever any physician has information indicating that a person is suffering from or has died from AIDS, such knowledge or information shall be reported immediately to the secretary, together with the name and address of the person who has AIDS. Any physician or administrator of a medical care facility or such administrator's designee who is in receipt of a report indicating laboratory confirmation of HIV infection resulting from the examination of any specimen provided to a laboratory by such physician or administrator or designee shall report all such information to the secretary. Reports shall be provided within 30 days of testing and shall include the name and address of the person tested, the type of test or tests performed, the date of performance of the test or tests, the results of the test or tests, the sex, date of birth, county of residence and racial/ethnic group of the person tested.

(b) Whenever any laboratory director has information on laboratory confirmation of HIV infection, this information shall be reported to the secretary. Reports shall be provided within 30 days of testing and shall include the type of test or tests, the results of the test or tests, dates of performance of the test or tests, the name of the physician or facility requesting the test or tests, and any identifying information about the person tested as the laboratory director has access to, such as the name and address of the person tested, the sex, date of birth, county of residence and racial/ethnic group, exposure category and pregnancy status of the person tested.

(c) Any physician, administrator of a medical care facility or such administrator's designee or laboratory director who reports the information required to be reported under subsection (a) or (b) in good faith and without malice to the secretary shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed in an action resulting from such report. Any such physician, administrator or designee or laboratory director shall have the same immunity with respect to participation in any judicial proceeding resulting from such report.

(d) Information required to be reported under subsection (a) or (b) and information obtained through laboratory tests conducted by the department of health and environment relating to HIV or AIDS and persons suffering therefrom or infected therewith shall be confidential and shall not be disclosed or made public, upon subpoena or otherwise, beyond the disclosure necessary under subsection (a) or (b) or under subsection (a) of K.S.A. 65-6003 and amendments thereto or the usual reporting of laboratory test results to persons specifically designated by the secretary as authorized to obtain such information, except such information may be disclosed:

- (1) If no person can be identified in the information to be disclosed and the disclosure is for statistical purposes;
- (2) if all persons who are identifiable in the information to be disclosed consent in writing to its disclosure;
- (3) if the disclosure is necessary, and only to the extent necessary, as specified by rules and regulations of the secretary, to protect the public health;
- (4) if a medical emergency exists and the disclosure is to medical personnel qualified to treat AIDS or HIV infection, except that any information disclosed pursuant to this paragraph shall be disclosed only to the extent necessary to protect the health or life of a named party; or
- (5) if the information to be disclosed is required in a court proceeding involving a minor and the information is disclosed in camera.

(e) Information regarding cases of AIDS or HIV infection reported in accordance with this section shall be used only as authorized under this act. Such information shall not be used in any form or manner which would lead to the discrimination against any individual or group with regard to employment, to provision of medical care or acceptance into any facilities or institutions for medical care, housing, education, transportation, or for the provision of any other goods or services.

History: L. 1988, ch. 232, § 2; L. 1990, ch. 234, § 2; L. 1997, ch. 8, § 14; L. 1999, ch. 109, § 2; L. 2001, ch. 58, § 1; July 1.

**65-6003**

**Chapter 65.--PUBLIC HEALTH**

**Article 60.--ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS) AND HEPATITIS B; OTHER INFECTIOUS DISEASE**

**65-6003.** Investigation of cases of AIDS or HIV infection; rules and regulations; protection of public health; disclosure of information; confidentiality; agreements with local boards of health authorized.

(a) The secretary shall investigate cases of persons who have HIV infection or AIDS and monitor such cases during their continuance. The secretary may adopt and enforce rules and regulations for the prevention and control of HIV infection or AIDS as may be necessary to protect the public health. The secretary shall adopt rules and regulations for maintaining confidentiality of information under this act which at a minimum are as strict as the centers for disease control and prevention guidelines.

(b) Any information relating to persons who have HIV infection or AIDS which is required to be disclosed or communicated under subsection (a) shall be confidential and shall not be disclosed or made public beyond the disclosure necessary under subsection (a) or under subsection (a) of K.S.A. 65-6002 and amendments thereto to persons specifically designated by the secretary as authorized to obtain such information, except as otherwise permitted by subsection (d) of K.S.A. 65-6002 and amendments thereto.

The secretary may enter into agreements with any county or joint board of health to perform duties required to be performed by the secretary under subsection (a) as specified by such agreement. The confidentiality requirements of subsection (b) shall apply to any duties performed pursuant to such an agreement.

History: L. 1988, ch. 232, § 3; L. 1999, ch. 109, § 3; July 1.

**65-6004**

**Chapter 65.--PUBLIC HEALTH**

**Article 60.--ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS) AND HEPATITIS B; OTHER INFECTIOUS DISEASE**

**65-6004.** Physician authorized to disclose to certain persons information about patient who has infectious disease or who has had laboratory confirmation of a positive reaction to an infectious disease test; confidentiality of information; immunity in judicial proceedings.

(a) Notwithstanding any other law to the contrary, a physician performing medical or surgical procedures on a patient who the physician knows has an infectious disease or has had laboratory confirmation of a positive reaction to an infectious disease test may disclose such information to other health care providers, emergency services employees, corrections officers or law enforcement employees who have been or will be placed in contact with body fluids of such patient. The information shall be confidential and shall not be disclosed by such health care providers, emergency services employees, corrections officers or law enforcement employees except as may be necessary in providing treatment for such patient.

(b) Notwithstanding any other law to the contrary, a physician who has reason to believe that the spouse or partner of a person who has had laboratory confirmation of HIV infection or who has AIDS may have been exposed to HIV and is unaware of such exposure may inform the spouse or partner of the risk of exposure. The information shall be confidential and shall not be disclosed by such spouse or partner to other persons except to the spouse or partner who has had laboratory confirmation of HIV infection or who has AIDS.

(c) Nothing in this section shall be construed to create a duty to warn any person of possible exposure to HIV.

(d) Any physician who discloses or fails to disclose information in accordance with the provisions of this section in good faith and without malice shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed in an action resulting from such disclosure. Any such physician shall have the same immunity with respect to participation in any judicial proceeding resulting from such disclosure.

History: L. 1988, ch. 232, § 4; L. 1990, ch. 234, § 3; L. 1993, ch. 221, § 1; L. 1996, ch. 215, § 2; L. 1999, ch. 109, § 4; July 1.

**65-6005**

**Chapter 65.--PUBLIC HEALTH**

**Article 60.--ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS) AND HEPATITIS B; OTHER INFECTIOUS DISEASE**

**65-6005.** Unlawful acts; penalties. Except as otherwise provided in this section, any person violating, refusing or neglecting to obey any provision of K.S.A. 65-6001 through 65-6004, and amendments thereto, or of the rules and regulations adopted by the secretary for the prevention and control of HIV infection or AIDS shall be guilty of a class C misdemeanor. Any person who discloses information which is made confidential and prohibited from disclosure under K.S.A. 65-6002 through 65-6004, and amendments thereto, shall be guilty of a misdemeanor punishable by a fine of not less than \$500 nor more than \$1,000 and by imprisonment in the county jail for not more than six months.

History: L. 1988, ch. 232, § 5; L. 1999, ch. 109, § 5; July 1.

**65-6006**

**Chapter 65.--PUBLIC HEALTH**

**Article 60.--ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS) AND HEPATITIS B; OTHER INFECTIOUS DISEASE**

**65-6006.** Educational material explaining AIDS; distribution to district courts; copies provided to parties applying for marriage license. The secretary shall prepare for distribution to the district courts of the state educational material explaining the nature, causes and effects of AIDS and other information relating to AIDS as may be appropriate. The clerks of the district courts or judges thereof, when applied to for a marriage license, shall provide copies of such educational material to the parties to the proposed marriage.

History: L. 1988, ch. 232, § 6; July 1.

**65-6007**

**Chapter 65.--PUBLIC HEALTH**

**Article 60.--ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS) AND HEPATITIS B; OTHER INFECTIOUS DISEASE**

**65-6007.** Establishment and maintenance of sites for testing for HIV. The secretary shall establish and maintain test sites throughout the state where testing for HIV may be undertaken including anonymous testing. The secretary shall establish test sites throughout the state so that an anonymous test site is available within 100 miles of any resident of the state.

History: L. 1988, ch. 232, § 7; L. 1999, ch. 109, § 6; July 1.

**65-6008**

**Chapter 65.--PUBLIC HEALTH**

**Article 60.--ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS) AND HEPATITIS B; OTHER INFECTIOUS DISEASE**

**65-6008.** Infectious disease testing; certain persons in contact with body fluids; hearing; disclosure of test results.

(a) If a corrections officer, emergency services employee, law enforcement employee or juvenile correctional facility staff comes in contact with or otherwise is exposed to transmission of body fluids from one or more other persons while performing duties within the scope of such employee's duties as an employee, the head of the employing agency or entity may make application to a court of competent jurisdiction for an order requiring such other person or persons to submit to infectious disease tests.

(b) Such application shall include an allegation that the person or persons sought to be tested have been requested to submit voluntarily to infectious disease tests and have refused the tests. When any such application is received, the court shall hold a hearing forthwith and shall issue its order thereon immediately if the court finds that:

- (1) There is probable cause to believe that the employee involved has come in contact with or otherwise has been exposed to transmission of the body fluids of the person or persons sought to be tested; and
- (2) the person or persons sought to be tested have been requested to submit to the tests and have refused, unless the court makes a further finding that exigent circumstances exist which, in the court's judgment, would excuse the applicant from making such a request.

(c) If an infectious disease test ordered pursuant to this section results in a negative reaction, the court shall order the person tested to submit to another infectious disease test six months from the date the first test was administered.

(d) The results of any infectious disease test ordered pursuant to this section shall be disclosed to the court which ordered the test, the employee and the person tested. If an infectious disease test ordered pursuant to this section results in a positive reaction, the results shall be reported to the employee.

History: L. 1996, ch. 215, § 3; L. 1998, ch. 187, § 13; July 1.

**65-6009**

**Chapter 65.--PUBLIC HEALTH**

**Article 60.--ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS) AND HEPATITIS B; OTHER INFECTIOUS DISEASE**

**65-6009.** Same; persons arrested or convicted; disclosure of test results; costs of counseling and testing.

- (a) At the time of an appearance before a magistrate under K.S.A. 22-2901 and amendments thereto, the magistrate shall inform any person arrested and charged with a crime in which it appears from the nature of the charge that the transmission of body fluids from one person to another may have been involved of the availability of infectious disease tests and shall cause the alleged victim of such a crime, if any, to be notified that infectious disease tests and counseling are available. If the victim of the crime or the county or district attorney requests the court to order infectious disease tests of the alleged offender or if the person arrested and charged with a crime stated to the law enforcement officer making such arrest that the person arrested and charged with the crime has an infectious disease or is infected with an infectious disease, or used words of like effect, the court shall order the arrested person to submit to infectious disease tests. The results of any test obtained under this section shall be inadmissible in any criminal or civil proceeding.
- (b) Upon conviction of a person for any crime which the court determines from the facts of the case involved or was likely to have involved the transmission of body fluids from one person to another, the court:
- (1) May order the convicted person to submit to infectious disease tests; or
  - (2) shall order the convicted person to submit to infectious disease tests if the victim of the crime or the parent or legal guardian of the victim, if the victim is a minor, requests the court to issue such order. If infectious disease tests are ordered under this subsection, the victim of the crime, if any, who is not a minor, shall designate a health care provider or counselor to receive such information on behalf of the victim. If the victim is a minor, the parent or legal guardian of the victim shall designate the health care provider or counselor to receive such information.
- (c) The results of any infectious disease test ordered under subsection (a) shall be disclosed to the law enforcement officer making such arrest, the person arrested and such other persons as the court determines have a legitimate need to know the test result in order to provide for their protection. The results of any infectious disease test ordered under subsection (b) shall be disclosed to the court which ordered the test, the convicted person and to the person designated under subsection (b) by the victim or victims of the crime or by the parent or legal guardian of a victim if the victim is a minor. If an infectious disease test ordered under this section results in a positive reaction, the results shall be reported to the secretary of health and environment and to the secretary of corrections.
- (d) As used in this section, infectious disease includes HIV and hepatitis B.
- (e) The costs of any counseling and testing provided under this section shall be paid from amounts appropriated to the department of health and environment for that purpose. The court shall order the adjudicated person to pay restitution to the department of health and environment for the costs of any counseling provided under this section and the costs of any test ordered or otherwise performed under this section.

History: L. 1996, ch. 215, § 4; L. 2001, ch. 102, § 5; July 1.

**65-6010**

**Chapter 65.--PUBLIC HEALTH**

**Article 60.--ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS) AND HEPATITIS B; OTHER INFECTIOUS DISEASE**

**65-6010.** Same; withdrawal of blood; confidentiality of information; penalty.

(a) When a court orders a person to submit to infectious disease tests under this act, the withdrawal of the blood may be performed only by:

- (1) A person licensed to practice medicine and surgery or a person acting under the supervision of any such licensed person;
- (2) a licensed professional nurse or a licensed practical nurse; or
- (3) a qualified medical technician. No person authorized by this subsection to withdraw blood, no person assisting in the performance of the infectious disease tests nor any medical care facility where blood is withdrawn or tested that has been ordered by the court to withdraw or test blood shall be liable in any civil or criminal action when the act is performed in a reasonable manner according to generally accepted medical practices.

(b) The results of tests or reports, or information therein, obtained under this act shall be confidential and shall not be divulged to any person not authorized by this act to receive the same. Any violation of this subsection is a class C nonperson misdemeanor.

History: L. 1996, ch. 215, § 5; July 1.

**65-6011**

**Chapter 65.--PUBLIC HEALTH**

**Article 60.--ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS) AND HEPATITIS B; OTHER INFECTIOUS DISEASE**

**65-6011.** Report to legislature. On or before January 8, 2001, and annually thereafter, the secretary of health and environment shall report to the legislature concerning the impact of the changes made to K.S.A. 65-6001 through 65-6007, and amendments thereto.

History: L. 1999, ch. 109, § 7; L. 2001, ch. 58, § 2; July 1.

**65-6012 to 65-6014**

**Chapter 65.--PUBLIC HEALTH**

**Article 60.--ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS) AND HEPATITIS B; OTHER  
INFECTIOUS DISEASE**

**65-6012 to 65-6014.** Reserved.

**65-6015**

**Chapter 65.--PUBLIC HEALTH**

**Article 60.--ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS) AND HEPATITIS B; OTHER INFECTIOUS DISEASE**

**65-6015.** Definitions. As used in K.S.A. 65-6015 through 65-6017, and amendments thereto:

- (a) "Body fluid" means blood, amniotic fluid, pericardial fluid, pleural fluid, synovial fluid, cerebrospinal fluid, semen or vaginal secretions, or any body fluid visibly contaminated with blood.
- (b) "Corrections employee" means an employee of the juvenile justice authority or the department of corrections or an employee of a contractor who is under contract to provide services in a correctional institution.
- (c) "Offender" means a person in the legal custody of the commissioner of juvenile justice or the secretary of corrections.
- (d) "Physician" means any person licensed to practice medicine and surgery.
- (e) "Infectious disease" means any disease communicable from one person to another through contact with bodily fluids.

History: L. 1993, ch. 221, § 2; L. 2001, ch. 102, § 1; L. 2005, ch. 40, § 1; July 1.

**65-6016**

**Chapter 65.--PUBLIC HEALTH**

**Article 60.--ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS) AND HEPATITIS B; OTHER INFECTIOUS DISEASE**

**65-6016.** Physician authorized to disclose infectious diseases to certain corrections employees; confidentiality; immunity in judicial proceedings.

(a) Notwithstanding any other law to the contrary, a physician performing medical or surgical procedures on a patient who the physician knows has an infectious disease or has had a positive reaction to an infectious disease test may disclose such information to corrections employees who have been or will be placed in contact with body fluid of such patient. The information shall be confidential and shall not be disclosed by corrections employees except as may be necessary in providing treatment for such patient. Any other disclosure of such information by a corrections employee is a class C misdemeanor.

(b) Nothing in this section shall be construed to create a duty to warn any person of possible exposure to an infectious disease.

(c) Any physician who discloses information in accordance with the provisions of this section in good faith and without malice shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed in an action resulting from such disclosure. Any such physician shall have the same immunity with respect to participation in any judicial proceeding resulting from such disclosure.

History: L. 1993, ch. 221, § 3; L. 2001, ch. 102, § 2; July 1.

**65-118**

**Chapter 65.--PUBLIC HEALTH**

**Article 1.--SECRETARY OF HEALTH AND ENVIRONMENT, ACTIVITIES**

**65-118.** Reporting to local health authority as to infectious or contagious diseases; persons reporting; immunity from liability; confidentiality of information; disclosure.

(a) Whenever any person licensed to practice the healing arts or engaged in a postgraduate training program approved by the state board of healing arts, licensed dentist, licensed professional nurse, licensed practical nurse administrator of a hospital, licensed adult care home-administrator, licensed physician assistant, licensed social worker, teacher or school administrator knows or has information indicating that a person is suffering from or has died from a reportable infectious or contagious disease as defined in rules and regulations, such knowledge or information shall be reported immediately to the county or joint board of health or the local health officer, together with the name and address of the person who has or is suspected of having the infectious or contagious disease, or the name and former address of the deceased individual who had or was suspected of having such a disease. In the case of a licensed hospital or adult care home, the administrator may designate an individual to receive and make such reports. The secretary of health and environment shall, through rules and regulations, make provision for the consolidation of reports required to be made under this section when the person required to make the report is working in a licensed hospital or adult care home. Laboratories certified under the federal clinical laboratories improvement act pursuant to 42 code of federal regulations, 493 shall report the results of microbiologic cultures, examinations, immunologic essays for the presence of antigens and antibodies and any other laboratory tests which are indicative of the presence of a reportable infectious or contagious disease to the department of health and environment. The director of the division of health may use information from death certificates for disease investigation purposes.

(b) Any person who is an individual member of a class of persons designated under subsection (a) of this section and who reports the information required to be reported under such subsection in good faith and without malice to a county or joint board of health, a local health officer or the department of health and environment shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed in an action resulting from such report. Any such person shall have the same immunity with respect to participation in any judicial proceeding resulting from such report.

(c) Information required to be reported under subsection (a) of this section shall be confidential and shall not be disclosed or made public, upon subpoena or otherwise, beyond the requirements of subsection (a) of this section or subsection (a) of K.S.A. 65-119, except such information may be disclosed:

- (1) If no person can be identified in the information to be disclosed and the disclosure is for statistical purposes;
- (2) if all persons who are identifiable in the information to be disclosed consent in writing to its disclosure;
- (3) if the disclosure is necessary, and only to the extent necessary, to protect the public health;
- (4) if a medical emergency exists and the disclosure is to medical personnel qualified to treat infectious or contagious diseases. Any information disclosed pursuant to this paragraph shall be disclosed only to the extent necessary to protect the health or life of a named party; or
- (5) if the information to be disclosed is required in a court proceeding involving child abuse and the information is disclosed in camera.

History: L. 1901, ch. 285, § 2; R.S. 1923, 65-118; L. 1953, ch. 283, § 1; L. 1976, ch. 262, § 1; L. 1979, ch. 189, § 1; L. 1998, ch. 35, § 1; L. 2000, ch. 162, § 17; Feb. 1, 2001.

**65-119**

**Chapter 65.--PUBLIC HEALTH**

**Article 1.--SECRETARY OF HEALTH AND ENVIRONMENT, ACTIVITIES**

**65-119.** Duties and powers of local health officers; contagious diseases; confidentiality of information; disclosure, when:

(a) Any county or joint board of health or local health officer having knowledge of any infectious or contagious disease, or of a death from such disease, within their jurisdiction, shall immediately exercise and maintain a supervision over such case or cases during their continuance, seeing that all such cases are properly cared for and that the provisions of this act as to isolation, restriction of communication, quarantine and disinfection are duly enforced. The county or joint board of health or local health officer shall communicate without delay all information as to existing conditions to the secretary of health and environment. The local health officer shall confer personally, if practicable, otherwise by letter, with the person in attendance upon the case, as to its future management and control. The county or joint board of health or local health officer is hereby empowered and authorized to prohibit public gatherings when necessary for the control of any and all infectious or contagious disease.

(b) Any disclosure or communication of information relating to infectious or contagious diseases required to be disclosed or communicated under subsection (a) of this section shall be confidential and shall not be disclosed or made public beyond the requirements of subsection (a) of this section or subsection (a) of K.S.A. 65-118, except as otherwise permitted by subsection (c) of K.S.A. 65-118.

History: L. 1901, ch. 285, § 3; R.S. 1923, 65-119; L. 1953, ch. 283, § 2; L. 1974, ch. 352, § 8; L. 1976, ch. 262, § 2; L. 1979, ch. 189, § 2; July 1.

**65-2892**

**Chapter 65.--PUBLIC HEALTH**

**Article 28.--HEALING ARTS**

**65-2892.** Examination and treatment of persons under 18 for venereal disease; liability. Any physician, upon consultation by any person under eighteen (18) years of age as a patient, may, with the consent of such person who is hereby granted the right of giving such consent, make a diagnostic examination for venereal disease and prescribe for and treat such person for venereal disease including prophylactic treatment for exposure to venereal disease whenever such person is suspected of having a venereal disease or contact with anyone having a venereal disease. All such examinations and treatment may be performed without the consent of, or notification to, the parent, parents, guardian or any other person having custody of such person. Any physician examining or treating such person for venereal disease may, but shall not be obligated to, in accord with his opinion of what will be most beneficial for such person, inform the spouse, parent, custodian, guardian or fiance of such person as to the treatment given or needed without the consent of such person. Such informing shall not constitute libel or slander or a violation of the right of privacy or privilege or otherwise subject the physician to any liability whatsoever. In any such case, the physician shall incur no civil or criminal liability by reason of having made such diagnostic examination or rendered such treatment, but such immunity shall not apply to any negligent acts or omissions. The physician shall incur no civil or criminal liability by reason of any adverse reaction to medication administered, provided reasonable care has been taken to elicit from such person under eighteen (18) years of age any history of sensitivity or previous adverse reaction to the medication.

History: L. 1969, ch. 222, § 1; L. 1972, ch. 161, § 17; July 1.

**21-3435**

**Chapter 21.--CRIMES AND PUNISHMENTS**

**PART II.--PROHIBITED CONDUCT**

**Article 34.--CRIMES AGAINST PERSONS**

**21-3435.** Exposing another to a life threatening communicable disease.

(a) It is unlawful for an individual who knows oneself to be infected with a life threatening communicable disease knowingly:

(1) To engage in sexual intercourse or sodomy with another individual with the intent to expose that individual to that life threatening communicable disease;

(2) to sell or donate one's own blood, blood products, semen, tissue, organs or other body fluids with the intent to expose the recipient to a life threatening communicable disease;

(3) to share with another individual a hypodermic needle, syringe, or both, for the introduction of drugs or any other substance into, or for the withdrawal of blood or body fluids from, the other individual's body with the intent to expose another person to a life threatening communicable disease.

(b) As used in this section, the term "sexual intercourse" shall not include penetration by any object other than the male sex organ; the term "sodomy" shall not include the penetration of the anal opening by any object other than the male sex organ.

(c) Violation of this section is a severity level 7, person felony.

History: L. 1992, ch. 289, § 7; L. 1993, ch. 291, § 45; L. 1999, ch. 164, § 7; July 1.

**38-1692**

**Chapter 38.--MINORS**

**Article 16.--KANSAS JUVENILE JUSTICE CODE**

**38-1692.**

History: L. 1993, ch. 242, § 1; L. 1995, ch. 251, § 32; L. 1996, ch. 215, § 6; L. 1997, ch. 156, § 76; L. 2001, ch. 102, § 4; **Repealed**, L. 2006, ch. 169, § 140; Jan. 1, 2007

**38-2317**

**Chapter 38.--MINORS**

**Article 23.--REVISED KANSAS JUVENILE JUSTICE CODE**

**38-2317.** Infectious disease testing and counseling; disclosure of results; penalties.

(a) As used in this section:

(1) "Adjudicated person" means a person found to be a juvenile offender or a person found not to be a juvenile offender because of mental disease or defect.

(2) "Laboratory confirmation" means positive test results from a confirmation test approved by the secretary of health and environment.

(3) "Sexual act" means contact between the penis and the vulva, the penis and the anus, the mouth and the penis, the mouth and the vulva or the mouth and the anus. For purposes of this definition contact involving the penis occurs upon penetration, however slight.

(4) "Infectious disease test" means a test approved by the secretary of health and environment.

(5) "Body fluids" means blood, semen or vaginal secretions or any body fluid visibly contaminated with blood.

(6) "Infectious disease" means any disease communicable from one person to another through contact with bodily fluids.

(b) At the time of the first appearance before the court of a person charged with an offense involving a sexual act committed while the person was a juvenile, or in which it appears from the nature of the charge that the transmission of body fluids from one person to another may have been involved, the judge shall inform the person or the parent or legal guardian of the person of the availability of infectious disease testing and counseling and shall cause each alleged victim of the offense and if the alleged victim is a minor, the parent, if any, to be notified that infectious disease testing and counseling are available.

(c) If the victim of the offense or if the victim is a minor, if the victim's parent requests the court to order infectious disease tests of the alleged offender or if the person charged with the offense stated to law enforcement officers that such person has an infectious disease or is infected with an infectious disease, or used words of like effect, the court shall order the person charged with the offense to submit to infectious disease tests.

(d) For any offense by an adjudicated person which the court determines, from the facts of the case, involved or was likely to have involved the transmission of body fluids from one person to another or involved a sexual act, the court:

(1) May order the adjudicated person to submit to infectious disease tests; or

(2) shall order the adjudicated person to submit to infectious disease tests if a victim of the offense, or the parent or legal guardian of the victim if the victim is a minor, requests the court to make such order. If an infectious disease test is ordered under this subsection, a victim who is an adult shall designate a health care provider or counselor to receive the information on behalf of the victim. If a victim is a minor, the parent or legal guardian of the victim shall designate the health care provider or counselor to receive the information. If testing for HIV or hepatitis B infection results in a negative reaction, the court shall order the adjudicated person to submit to another test for HIV or hepatitis B infection six months after the first test was administered.

(e) The results of infectious disease tests ordered under this section shall be disclosed to the court which ordered the test, to the adjudicated person, or the parent or legal guardian of the adjudicated person, and to each person designated under subsection (d) by a victim or by the parent or legal guardian of a victim. If infectious disease tests ordered under this section results in a laboratory confirmation, the results shall be reported to the secretary of health and environment and to:

(1) The commissioner of juvenile justice, in the case of a juvenile offender or a person not adjudicated because of mental disease or defect, for inclusion in such offender's or person's medical file; or  
(2) the secretary of corrections, in the case of a person under 16 years of age who has been convicted as an adult, for inclusion in such person's medical file. The secretary of health and environment shall provide to each victim of the crime or sexual act, at the option of such victim, counseling regarding the human immunodeficiency virus and hepatitis B, testing for HIV or hepatitis B infection in accordance with K.S.A. 65-6001 et seq., and amendments thereto, and referral for appropriate health care and services.

(f) The costs of any counseling and testing provided under subsection (e) by the secretary of health and environment shall be paid from amounts appropriated to the department of health and environment for that purpose. The court shall order the adjudicated person to pay restitution to the department of health and environment for the costs of any counseling provided under this section and the costs of any test ordered or otherwise performed under this section.

(g) When a court orders an adjudicated person to submit to infectious disease tests under this section, the withdrawal of the blood may be performed only by:

- (1) A person licensed to practice medicine and surgery or a person acting under the supervision of any such licensed person;
- (2) a licensed professional nurse or a licensed practical nurse; or
- (3) a qualified medical technician. No person authorized by this subsection to withdraw blood, no person assisting in the performance of infectious disease tests nor any medical care facility where blood is withdrawn or tested that has been ordered by the court to withdraw or test blood shall be liable in any civil or criminal action when the test is performed in a reasonable manner according to generally accepted medical practices.

(h) The results of tests or reports, or information therein, obtained under this section shall be confidential and shall not be divulged to any person not authorized by this section or authorized in writing by the juvenile to receive the results or information. Any violation of this section is a class C nonperson misdemeanor.

History: L. 2006, ch. 169, § 17; L. 2008, ch. 169, § 21; July 1.

# Regulations

**Kansas Administrative Regulations – Department of Health and Environment**

**ARTICLE 1. - DISEASES**

**28-1-18. Notification of Kansas department of health and environment by laboratories of positive reaction to tests for certain diseases.**

(a) To assist in the control of disease in Kansas, each person who is in charge of a clinical laboratory shall notify the Kansas department of health and environment within 48 hours after testing, unless otherwise specified in this regulation, any specimen derived from the human body that yields microscopical, cultural, immunological, serological, or other evidence suggestive of those diseases that are significant from a public health standpoint.

(b)

(1) Each notification shall include the following:

(A) The date and result of the test performed;

(B) the name of the person from whom the specimen was obtained;

(C) when available, either the date of birth or the age, and the address and telephone number of the person from whom the specimen was obtained; and

(D) when available, the name and address of the physician for whom the examination or test was performed, and any other information required by the secretary.

(2) A legible copy of the laboratory report delivered by confidential electronic transmission or mail, or a confidential telephone communication of the laboratory report shall satisfy the notification requirement of this subsection.

(c) The conditions or diseases to which this regulation applies shall include the following:

(1) All diseases listed in K.A.R. 28-1-2;

(2) all blood lead level test results as follows:

(A) Blood lead level test results greater than or equal to 10 micrograms per deciliter for persons less than 18 years of age, and greater than or equal to 25 micrograms per deciliter for persons 18 years of age or older shall be reported within 48 hours; and

(B) blood lead level test results less than 10 micrograms per deciliter for persons less than 18 years of age, and less than 25 micrograms per deciliter for persons 18 years of age or older shall be reported within 30 days; and

(3) CD4+ T-lymphocyte count of less than 500 per microliter or a CD4+ T-lymphocyte percent of total lymphocytes less than 29.

(d) Isolates of positive cultures of the following microorganisms shall be sent to the Kansas department of health and environment, division of health and environmental laboratories, unless this requirement is waived under special circumstances by the secretary of health and environment:

(1) Salmonella;

(2) shigella;

(3) *Escherichia coli* O157:H7 and other enterohemorrhagic, enteropathogenic, and enteroinvasive *E. coli*;

(4) *Neisseria meningitidis*;

(5) streptococcal invasive disease from group A *Streptococcus* or *Streptococcus pneumoniae*; and

(6) *Mycobacterium tuberculosis*.

(e) All laboratory notifications required in this regulation shall be confidential and shall not be open to public inspection, as provided in K.S.A. 65-118 and amendments thereto. (Authorized by and implementing K.S.A. 65-101, K.S.A. 2001 Supp. 65-118, and K.S.A. 65-128; effective, E-68-22, Aug. 9, 1968; effective Jan. 1, 1969; amended May 1, 1986; amended Aug. 23, 1993; amended Jan. 12, 1996; amended Dec. 1, 1997; amended Feb. 18, 2000; amended, T-28-8-9-02, Aug. 9, 2002; amended Dec. 2, 2002.)

**Kansas Administrative Regulations – Department of Health and Environment**  
**ARTICLE 1. - DISEASES**

**28-1-26. Protection of confidentiality of information regarding individuals with HIV infection.**

(a) Definitions. Each of the following terms shall have the meaning specified in this subsection:

- (1) “AIDS” means the acquired immune deficiency syndrome.
  - (2) “Authorized personnel” means individuals who have signed a confidentiality statement.
  - (3) “Confidentiality statement” means a written statement, dated and signed by an applicable individual, that certifies the individual’s agreement to abide by the security policy of a public health agency and this regulation.
  - (4) “Counseling and testing site” means a site where counseling and testing for HIV infection are available.
  - (5) “HIV” means the human immunodeficiency virus.
  - (6) “HIV confidential information” means all combinations of individual data elements or information collected for surveillance purposes pursuant to K.S.A. 65-6002 and amendments thereto, in electronic or hard copy, that could identify anyone with HIV or AIDS, including the name, date of birth, address, and other identifying information.
  - (7) “HIV confidentiality officer” means the official in a public health agency responsible for implementing and enforcing all the measures to protect HIV confidential information as defined under this regulation.
  - (8) “HIV infection” means the presence of HIV in the body.
  - (9) “HIV prevention counseling” and “HPC” mean a client-centered counseling activity designed to assist clients in assessing their risks of acquiring or transmitting HIV and in negotiating a realistic and incremental plan for reducing risk.
  - (10) “HIV report” means a report of HIV infection or AIDS transmitted to a public health agency pursuant to K.S.A. 65-6002 and amendments thereto.
  - (11) “Partner counseling and referral services” and “PCRS” mean a prevention and control activity conducted by trained individuals who contact and counsel each individual with HIV infection or AIDS who is reported to the secretary utilizing HPC.
  - (12) “Public health agency” means any organization operated by any state or local government that acquires, uses, discloses, or stores HIV confidential information for public health purposes.
  - (13) “Secretary” means the secretary of health and environment.
  - (14) “Secured area” means the physical confinement limiting the location where HIV confidential information is available.
  - (15) “Written security policy” means written specifications of the measures adopted to protect HIV confidential information and a description of how to implement these measures.
- (b) Each public health agency shall appoint an HIV confidentiality officer, who shall have the authority to make decisions about the agency operations that could affect the protection of HIV confidential information.
- (c) HIV confidential information shall be maintained in a secured area that is not easily accessible through a window and that is protected by a locked door. Access to the secured area shall be limited to authorized personnel only, and “Restricted area—No unauthorized access” signs shall be prominently posted. Access to the secured area by cleaning crews and other building maintenance personnel shall be granted only during hours when authorized personnel are available for escort or under conditions in which the data is protected by security measures specified in the written security policy.
- (d) Hard copy records containing HIV confidential information shall be kept in a locked cabinet located in a secured area, except when in use by authorized personnel. Records shall not be removed from any secured area without authorization from the HIV confidentiality officer.

- (e) All electronic records containing HIV confidential information shall be kept on computers protected by coded, individual passwords and located in a secured area. Each transfer of records onto removable electronic media shall occur only if absolutely necessary for HIV surveillance program operations and shall be required to be authorized by the HIV confidentiality officer. The records shall always be encrypted before the transfer to the removable media. Exchange of HIV confidential information using electronic mail shall be done only if encryption procedures are utilized.
- (f) HIV confidential information shall be permanently removed from HIV records as soon as the information is no longer necessary for the purposes of the prevention and control of HIV infection.
- (g) Mail containing HIV confidential information shall not include on the envelope or address any reference to the HIV infection, to the HIV virus, or to AIDS.
- (h) All telephone conversations in which HIV confidential information is exchanged shall be conducted in a manner that prevents the conversations from being overheard by unauthorized persons.
- (i) Each local public health officer responsible for a public health agency shall adopt and implement a written security policy related to HIV confidential information consistent with the provisions of this regulation. A copy of the security policy shall be distributed to all authorized personnel.
- (j) Access to HIV confidential information shall be restricted to a minimum number of authorized personnel trained in confidentiality procedures and aware of penalties for the unauthorized disclosure of HIV confidential information. The HIV confidentiality officer shall authorize the persons who may have access to HIV confidential information and shall keep a list of authorized personnel.
- (k) Each person authorized to access HIV confidential information shall sign a confidentiality agreement. The HIV confidentiality officer shall maintain a copy of the confidentiality agreement for all authorized personnel.
- (l) HIV confidential information shall not be cross-matched with records in other data bases if the resulting cross-matched data bases do not have equivalent security and confidentiality protections, and penalties for unauthorized disclosure as those for the HIV confidential information.
- (m) The use of records containing HIV confidential information for research purposes shall be required to be approved by institutional review boards, and all researchers shall sign confidentiality statements. Information made available for epidemiologic analyses shall not include names or other HIV confidential information and shall not result in the direct or indirect identification of persons reported with HIV and AIDS.
- (n) Authorized personnel designated by the secretary shall provided confidential, voluntary PCRS in accordance with this regulation. Any personnel providing PCRS who have reason to believe that a spouse, sex partner, or needle-sharing partner of a person who either is infected with HIV or has AIDS may be exposed to HIV or AIDS and is unaware of this risk of exposure may inform the spouse or partner of the risk of exposure if they do not reveal any identifying information about the original patient, including the name, physical description, time frame, method of transmission, and frequency of exposure.
- (o) All communication between public health agencies, both interstate and intrastate, for the purpose of supporting surveillance and PCRS activities, shall disclose information only to the extent necessary to protect the public health pursuant to K.S.A. 65-6002 and amendments thereto.
- (p) Each security breach of HIV confidential information shall be investigated by the HIV confidentiality officer, and personnel sanctions and criminal penalties shall be imposed as appropriate. The HIV confidentiality officer shall make an immediate telephone notification to the secretary that a breach of HIV confidential information occurred and shall transmit to the secretary a written report within seven days from the time the breach is discovered.
- (q) This regulation shall apply to the following:
- (1) All public health agencies engaged in the provision of services to prevent and control HIV or AIDS as specified in K.S.A. 65-6003 and amendments thereto;

(2) all individuals required to send HIV reports to the secretary under K.S.A. 65-6002, and amendments thereto; and

(3) all counseling and testing sites that receive funds from public health agencies.

(Authorized by K.S.A. 65-101 and 65-6003; implementing K.S.A. 65-6002 and 65-6003; effective Feb. 18,2000; amended July 7, 2006.)

**Kansas Administrative Regulations – Department of Social and Rehabilitation Services**  
**ARTICLE 60 – LICENSING OF COMMUNITY MENTAL HEALTH CENTERS**

**30-60-64. Required basic community support services.**

(a) Each center shall provide as appropriate, through the center, a contractor, or any affiliated center or other provider with which the center has an affiliation agreement, each of the following basic community support services:

- (1) Orientation services, including a means by which any person can discover, or become oriented to the center or its contractors or affiliated providers, through information concerning the following:
  - (A) What services are offered by the center, its contractors, its affiliated centers, or any other affiliates, and how to access those services, in a manner consistent with the requirements of K.A.R. 30-60-15;
  - (B) what the requirements or expectations are for each service offered, whether to qualify for or to continue to receive those services;
  - (C) what fees are charged for any service, and under what circumstances those fees may be adjusted, as required by K.A.R. 30-60-17; and
  - (D) what rights a consumer has, in a manner consistent with the requirements of K.A.R. 30-60-50;
- (2) public education, including community education programs concerning the following:
  - (A) What mental illness or severe emotional disturbance is;
  - (B) what the symptoms of mental illness or severe emotional disturbance are;
  - (C) what treatments are available;
  - (D) what the community can do to assist and support persons with a mental illness or a severe emotional disturbance; and
  - (E) what individuals can do to dispel the myths about mental illness and severe emotional disturbance;
- (3) emergency treatment and first response services, which shall be provided on a 24-hour-per-day, seven-day-per-week basis and shall include the following:
  - (A) Crisis responsiveness, including, when appropriate, staff going out of the office and to the individual for personal intervention, for any person found within the service area of the center who is thought to be experiencing a crisis or other emergency;
  - (B) referral to psychiatric and other community services, when appropriate, for any person found within the service area of the center;
  - (C) emergency consultation and education when requested by law enforcement officers, other professionals or agencies, or the public for the purposes of facilitating emergency services;
  - (D) evaluation of any person found within the service area of the center to determine the need for either inpatient or involuntary psychiatric care and treatment. This evaluation shall meet the following criteria:
    - (i) Be completed as soon as possible, but in any case not later than 24 hours after the initial request for that evaluation is made by any individual or agency. The evaluation shall be completed sooner if necessary to provide the certificate required by K.S.A. 59-2957(c)(1) and amendments thereto; and
    - (ii) be conducted in a place and manner that address the needs of that person;
  - (E) screening for admission to a state psychiatric hospital, when applicable and required by K.A.R. 30-61-10; and
  - (F) follow-up with any consumer seen for or provided with any emergency service and not detained for inpatient care and treatment, to determine the need for any further services or referral to any services;
- (4) basic outpatient treatment services, including the following:
  - (A) Evaluation and diagnosis;

- (B) individual, group, and family therapy;
- (C) medication management, including a means by which a consumer can receive the following under the direction and supervision of a licensed physician:
  - (i) A prescription for any medication required to treat the consumer's mental illness or severe emotional disturbance;
  - (ii) assistance with obtaining any medication prescribed for the treatment of the consumer's mental illness or severe emotional disturbance;
  - (iii) education concerning the effects, benefits, and proper usage and storage of any medication prescribed for the treatment of the consumer's mental illness or severe emotional disturbance;
  - (iv) assistance with the administration of, or with monitoring the administration of, any medication prescribed for the treatment of the consumer's mental illness or severe emotional disturbance; and
  - (v) any physiological testing or other evaluation necessary to monitor that consumer for adverse reactions to, or for other health-related issues that might arise in conjunction with, the taking of any medication prescribed for the treatment of the consumer's mental illness or severe emotional disturbance; and
- (D) referral to other community treatment providers and services, when appropriate;
- (5) basic case management services for adults, which shall be provided to any adult consumer who has a severe or persistent mental illness and who is determined to be in need of case management services. Case management services shall be provided either by a single individual acting as the case manager or by a team of individuals jointly acting as the case manager. If a team is jointly acting as the case manager, an individual from that team shall be assigned the responsibility for overseeing the provision of case management services to each consumer. Each individual case manager and each member of a team of case managers shall be sufficiently qualified by education and experience, and shall have completed, or shall have completed within six months, a case management training program that has been approved by the division and is specifically focused upon adults. Each case manager shall have the responsibility to provide, through a mutually acceptable process involving the consumer, the following:
  - (A) Engagement services and activities, including the following:
    - (i) Engaging the consumer in a purposeful, supportive, and helping relationship;
    - (ii) eliciting the consumer's choices concerning basic needs, including determining where the consumer desires to reside, what supports the consumer desires to rely upon, what productive activities the consumer desires to engage in, and what leisure activities the consumer desires to participate in; and
    - (iii) understanding the consumer's personal history and either satisfaction or dissatisfaction with services and treatments, including medications, that have been provided to or prescribed for that consumer in the past;
  - (B) strengths assessment services and activities, including the following:
    - (i) Identifying and assessing the consumer's wants and needs, the consumer's aspirations for the future, the resources that are or might be available to that consumer, the sources of motivation available to the consumer, and the strengths and capabilities the consumer possesses;
    - (ii) identifying and assessing what the consumer's preferences are with regard to having designated members of the consumer's family involved in the consumer's treatment, or with regard to having other designated individuals involved in the consumer's treatment, and depending upon what those preferences are, determining how best to involve those designated family members or other individuals in the consumer's assessment, treatment, and rehabilitation;

- (iii) identifying and researching what educational and vocational, financial, and social resources are or might be available to the consumer and might facilitate that consumer's recovery; and
  - (iv) identifying, researching, and understanding the cultural factors that might have affected or that might affect the consumer's experience with receiving treatment and other services, the role that family and other natural supports play in the life of that consumer, the effects that these factors might have on the treatment process, and the ways in which these factors might be used to support the consumer's recovery;
- (C) goal-planning services and activities, including the following:
- (i) Helping the consumer to identify, organize, and prioritize the consumer's personal goals and objectives with regard to independent living, education and training, employment, and community involvement;
  - (ii) assisting and supporting the consumer in choosing and pursuing activities consistent with achieving those goals and objectives at a pace consistent with that consumer's capabilities, resources, and motivation;
  - (iii) teaching the consumer goal-setting and problem-solving skills, and living, social, and selfmanagement skills;
  - (iv) identifying critical stressors that negatively affect the consumer's mental status and those interventions, coping strategies, and supportive resources that have been successful or helpful in addressing or relieving those stressors in the past; and
  - (v) developing relapse-prevention strategies, including wrap-around plans and advance directives, which the consumer may choose to utilize;
- (D) resource acquisition services and activities, including the following:
- (i) Assisting the consumer to access housing, transportation, education, job training, employment, public assistance, and recreational services available in the community;
  - (ii) assisting the consumer in finding and utilizing services provided by peer-companion programs, mutual support groups, and self-help organizations; and
  - (iii) ensuring that the consumer is knowledgeable of, and assisting the consumer in accessing, necessary and available medical and dental services and treatment;
- (E) emergency services coordination during periods of crisis;
- (F) advocacy services and activities, including the following:
- (i) Acting as a liaison between the consumer and that consumer's other service providers;
  - (ii) coordinating the treatment and supportive efforts of all the consumer's service providers, family members, and peers;
  - (iii) advocating for the consumer, as appropriate, in developing goals and objectives within the consumer's individualized treatment plan during the course of that consumer's treatment, and in acquiring the resources necessary for achieving those goals and objectives;
  - (iv) identifying factors that place the consumer at high risk for suicide, violence, substance abuse, victimization, or infection with serious medical disorders, including HIV, and assisting that consumer to develop strategies to eliminate or mitigate these risks; and
  - (v) providing ongoing education to the consumer, to members of that consumer's family, and to other individuals involved with that consumer about mental illness, treatment, medication and its side effects, rehabilitation, empowerment, and supportive resources;

(6) basic community-based support services for children, adolescents, and their families, which shall include consultative and advocative services and activities designed to assist professionals, service agencies, governmental and educational entities, and other individuals in understanding, planning for, developing, and comprehensively meeting the special needs of children and adolescents who either have a severe emotional disability or disorder or are mentally ill, and are therefore considered to be at risk of hospitalization or other out-of-home placement, and meeting the special needs of their families; and

(7) basic case management services for children, adolescents, and their families, which shall be provided to any child or adolescent consumer who either has a severe emotional disability or disorder or has been diagnosed as mentally ill and

who is determined to be in need of case management services, and to the immediate family with whom that child or adolescent consumer resides or with whom it is intended that the child or adolescent consumer will reside. Case management services shall be provided either by a single individual acting as the case manager or by a team of individuals acting jointly as the case manager. If a team is jointly acting as the case manager, an individual from that team shall be assigned the responsibility for overseeing the provision of case management services to each child or adolescent

and the family. Each individual case manager and each member of a team of case managers shall be sufficiently qualified by education and experience, and shall have completed, or shall have completed within six months, a case management training program that has been approved by the division and is specifically focused upon children, adolescents,

and their families. Each case manager shall have responsibility to provide the following:

(A) Engagement services and activities, including the following:

(i) Engaging the child or adolescent and members of the child's or adolescent's family in a purposeful, supportive, and helping relationship;

(ii) eliciting the family's choices concerning what supports the family desires to utilize; and

(iii) understanding both the child's or adolescent's and the family's experiences and either satisfaction or dissatisfaction with services and treatments, including medications, that have been provided to or prescribed for that child or adolescent in the past;

(B) strengths assessment services and activities, including the following:

(i) Identifying and assessing the child's or adolescent's and the family's wants and needs, their goals, the resources that are or might be available to them, and the strengths and capabilities that both the child or adolescent and the family possess;

(ii) identifying and researching what educational, financial, and social resources are or might be available to the child or adolescent, or to the family, and that might facilitate that child's or adolescent's or the family's treatment; and

(iii) identifying, researching, and understanding the cultural factors that might have affected or that might affect the child's or adolescent's or the family's experience with receiving treatment and other services, the role that natural supports play in the life of that child or adolescent or in the functioning of the family, the effects that these factors might have on the treatment process, and the ways in which these factors might be used to support the child or adolescent, or the family;

(C) goal-planning services and activities, including the following:

- (i) Helping the child or adolescent and the child's or adolescent's family to identify and prioritize specific goals and objectives based upon needs identified during the strengths assessment;
- (ii) assisting and supporting the child or adolescent and the child's or adolescent's family in choosing and accessing the services and supports necessary for achieving those goals and objectives and for increasing that family's community integration;
- (iii) identifying critical stressors that negatively affect the child's or adolescent's or the family's ability to function, and developing interventions and coping strategies to address or relieve those stressors; and
- (iv) developing crisis strategies that the child or adolescent or a member of the child's or adolescent's family can utilize to control symptomatic behavior in order to avoid crisis situations that present a risk of harm to either the child or adolescent or to others, or that result in an out-of home placement of that child or adolescent;
- (D) resource acquisition services and activities, including the following:
  - (i) Assisting the child or adolescent and the child's or adolescent's family to obtain needed benefits and services that are available in the community;
  - (ii) assisting the child or adolescent and the child's or adolescent's family in finding and utilizing services provided by peer-companion programs and groups, and other support organizations; and
  - (iii) ensuring that the family is knowledgeable of, and assisting the family in accessing, necessary and available medical and dental services and treatment;
- (E) emergency services coordination during periods of crisis;
- (F) transitional services and activities, which shall meet the following criteria:
  - (i) Commence in early adolescence in order to assist the adolescent to move into adulthood and to transition to services intended for adults; and
  - (ii) include the utilization of a wrap-around approach to services involving the appropriate persons and agencies necessary to coordinate and collaborate with the educational, employment, living, and supportive services necessary to ensure community integration and tenure; and
- (G) advocacy services and activities, including the following:
  - (i) Acting as a liaison between the child or adolescent, or the child's or adolescent's family, and that child's, adolescent's, or family's other service providers;
  - (ii) coordinating the treatment and supportive efforts of all the child's or adolescent's or the family's service providers, including educational, child welfare, and juvenile justice agencies;
  - (iii) advocating for the child or adolescent or for the child's or adolescent's family, as appropriate, in developing goals and objectives within that child's or adolescent's individualized treatment plan during the course of that child's or adolescent's treatment and in acquiring the resources necessary for achieving those goals and objectives;
  - (iv) identifying factors that place the child or adolescent at risk for suicide, violence, substance abuse, victimization, or infection with serious medical disorders, including HIV, and assisting both the child or adolescent and the members of the child's or adolescent's family to develop strategies to eliminate or mitigate those risks; and
  - (v) providing ongoing education to the child or adolescent, to the members of the child's or adolescent's family, and to other persons involved with that child or adolescent about severe emotional disturbances and behavior disorders, treatment, medication and its side effects, rehabilitation, empowerment, and supportive resources.

(b) Each center shall adopt and adhere to writ ten policies and procedures, which shall include the following requirements:

- (1) The services required to be provided by this regulation shall be provided by staff who are supervised by professionals who are sufficiently qualified by education and experience.
  - (2) The caseloads of staff providing these services shall be monitored and managed in a manner that ensures the quality of the services provided.
  - (3) Supervision of case managers shall be provided by supervisors who are sufficiently qualified by education and experience and who have completed a supervisory training program approved by the division.
  - (4) No consumer shall be denied access to any of these services solely on the basis of any previous unsuccessful intervention or experience.
  - (5) Continuity shall be maintained, whenever possible, in any relationship that might be established between a consumer and a staff member that provides any services to that consumer.
  - (6) Appropriate staff shall be encouraged to provide the majority of their services to consumers in settings outside of the offices of that center or those of any affiliated center or other provider with which the center has an affiliation agreement.
- (c) Each center shall ensure that each affiliated center or other provider with which the center has an affiliation agreement adheres to the center's policies and procedures adopted in compliance with subsection (b) of this regulation.
- (d) If a center elects to provide any of these basic community support services through any contractor, affiliated center, or other provider with which the center has an affiliation agreement, the center shall regularly monitor the services provided by that contractor or affiliated center or other affiliate to ensure the quality of the services that are provided and compliance with the requirements of this regulation. (Authorized by K.S.A. 39-1603(r), 65-4434(f), and 75-3307b; implementing K.S.A. 39-1603, 65-4434(f), 75-3304a, and 75-3307b; effective July 7, 2003.)

**Kansas Administrative Regulations – Insurance Department**  
**ARTICLE 1. - GENERAL**

**40-1-36. Life and health insurance applications; underwriting; acquired immunodeficiency syndrome (AIDS); defined.**

(a) As used in this regulation, these terms shall have the following meanings:

- (1) “Acquired immunodeficiency syndrome (AIDS)” means one or more opportunistic diseases which are at least moderately indicative of underlying cellular immunodeficiency, along with the absence of all known underlying causes of cellular immunodeficiency and all other causes of reduced resistance reported to be associated with at least one of those opportunistic diseases.
- (2) “AIDS related complex (ARC)” means a syndrome in which the individual displays many of the same symptoms of AIDS, including the presence of the HIV antibody.
- (3) “Adverse underwriting decisions” mean the actions described in K.S.A. 40-2,111(a).
- (4) “Applicant” means the individual proposed for coverage.

(b) All individual and group applications for insurance that require health information or questions shall comply with the following standards:

- (1) Whenever an applicant is requested to take an HIV antibody test in connection with an application for insurance, the insurer shall:
  - (A) Obtain written informed consent from the applicant;
  - (B) reveal the use of the test to the applicant;
  - (C) provide the applicant printed material prior to testing containing factual information describing AIDS, its causes, symptoms, how it is and can be spread, the tests used to detect the HIV antibody and what a person should do whose test results are positive; or, arrange for the applicant to receive relevant counseling from a qualified practitioner who has had extensive training and experience in addressing the fears, questions and concerns of persons tested for the HIV antibody;
  - (D) administer an initial test which meets the test protocol established by the food and drug administration of the federal department of health and human services;
  - (E) administer a second test, the immunoelectroprecipitate using disrupted whole virus antigen test (western blot), to substantiate an initial positive test result; and
  - (F) disclose the results of the testing in accordance with K.S.A. 40-2,112(b)(2) and (3).
- (2) Insurers may ask diagnostic questions on applications for insurance.
- (3) Application questions shall be formed in a manner designed to elicit specific medical information and not lifestyle, sexual orientation or other inferential information.
- (4) Questions which are vague, subjective, unfairly discriminatory, or so technical as to inhibit a clear understanding by the applicant are prohibited.

(c) All underwriting shall be based on individual review of specific health information furnished on the application, any reports provided as a result of medical examinations performed at the company’s request, medical record information obtained from the applicant’s health care providers or any combination of the foregoing. Adverse underwriting decisions shall not be based on less than conclusive responses to application questions.

(d) Adverse underwriting decisions shall be based on sound actuarial principles pursuant to K.S.A. 40-2,109. (Authorized by K.S.A. 40-103, 40-2404a; implementing K.S.A. 40-2,109, 40-2404(7) as amended by L. 1987, Ch. 171, Sec. 1; effective, T-88-35, Sept. 17, 1987; amended May 1, 1988.)

**Kansas Administrative Regulations – Board of Cosmetology**

**ARTICLE 15. – TATTOOING, BODY PIERCING, AND PERMANENT COSMETICS**

**69-15-1. Definitions. The definitions of terms used in article 15 are as follows.**

- (a) “Antiseptic” means a product used to stop or inhibit the growth of bacteria.
- (b) “Clean” means the absence of soil and dirt.
- (c) “Closed book” means without aid from or availability of written material.
- (d) “Communicable disease or condition” means diseases or conditions diagnosed by a licensed physician as being contagious or transmissible, as defined in K.A.R. 28-1-2.
- (e) “Completed procedure” means, for the purposes of determining qualification for licensure, a tattoo that has been finished, including any touchups or additional work following initial healing, and releasing the client from service, as follows.
  - (1) Figurative tattooing includes outlining and shading a new design on a client, or a different client, using different sizes or configurations of needles.
  - (2) Cosmetic tattooing includes eyeliner, eyebrows, lip liner, full lip color, repigmentation, or camouflage but does not include beauty marks.
- (f) “Demonstration permit” means a license that has been issued to an applicant from another state for a period of time not to exceed 15 days, under which a person may practice in any licensed facility.
- (g) “Easily accessible” means having unrestricted use or availability, or easy to approach or enter.
- (h) “Enclosed storage area” means a separate room, closet, cupboard, or cabinet.
- (i) “Equivalent” means comparable but not identical, and covering the same subject matter.
- (j) “Gross incompetence” means a serious lack of ability, legal qualification, or fitness to perform one’s duty effectively.
- (k) “High-level disinfectant” means a chemical agent that has demonstrated tuberculocidal activity.
- (l) “Instruments” means needles, probes, forceps, hemostats, or tweezers.
- (m) “Linens” means cloths or towels used for draping or protecting a table or similar functions.
- (n) “Low-level disinfectant” means a chemical agent that has demonstrated bactericidal, germicidal, fungicidal, and limited virucidal activity.
- (o) “Needle” means either of the following:
  - (1) the implement used to insert dyes or pigments into the dermis of the skin during permanent color or tattoo procedures; or
  - (2) the implement used to pierce or puncture a hole in any part of the human body for the purpose of inserting jewelry or other objects.
- (p) “Needle bar” means the metal or plastic device used to attach the needle to a tattoo machine.
- (q) “Official transcript” means a document certified by a school on a form approved and prescribed by the department of education or other regulating authority, indicating the hours and types of coursework, examinations, and scores that were completed by a student.
- (r) “One year of work experience” means a total of 12 full calendar months, but not necessarily within the same calendar year or consecutively.
- (s) “Operatory” means the isolated field in which treatment or services are provided.
- (t) “Piercing gun” means a hand-held tool manufactured exclusively for piercing the earlobe, into which studs and clutches are placed and inserted into the earlobe by a hand-squeezed or spring-loaded action to create a permanent hole. The tool shall be made of plastic, stainless steel, or other material that is able to be disinfected.

- (u) "Place or places of business" means each name, mailing address, and location, not a post office box, where the licensee or applicant for license performs services.
- (v) "Premises" means the entire building or structure within which services are performed.
- (w) "Probation" means continuation of licensure under special conditions set by the board.
- (x) "Protective gloves" means gloves made of vinyl or latex.
- (y) "Public view" means open to view and easy for the public to see.
- (z) "Reactivate" means to change an expired license to an active license.
- (aa) "Reciprocity" means eligibility for licensure based on board approval of a training program that an applicant completed in another state.
- (bb) "Renew" means to extend a current license for a year beyond expiration or to bring an inactive license to current, active status.
- (cc) "Repigmentation" means recoloration of the skin as a result of the following:
- (1) Use of dermabrasion, or chemical peels, or removal or resolution of birthmarks, vitiligo or other skin conditions that result in the loss of melanin to the skin;
  - (2) Recoloration to scars as a result of surgical procedures, including face-lifts, mole or wart removal, or cauterization;
  - (3) Recoloration to burn grafts and other skin irregularities resulting from burns or photo damage;
  - (4) Recreation of an areola or nipple, following mastectomy; or
  - (5) Use of cheek blush or other blending of pigments into skin in order to camouflage blotchy or irregularly pigmented skin.
- (dd) "Sharps" means any object that can penetrate the skin, including needles, scalpel blades, lancets, glass tubes that could be broken during handling, and syringes that have been removed from their original, sterile containers.
- (ee) "Sharps container" means a puncture-resistant, leak-proof container that can be closed for handling, storage, transportation, and disposal. The container shall be red and shall be labeled with the "Biohazard" symbol.
- (ff) "Single use" means products or items that are disposed of after each use, including cotton swabs or balls, tissues or paper products, paper or plastic cups, or gauze and sanitary coverings.
- (gg) "Sterilization" means destruction of all forms of microbiotic life, including spores.
- (hh) "Under direct supervision of a physician" means employed by and working in the office of a physician, with treatment ordered by and reimbursed to the physician.
- (ii) "Universal precautions" means a set of guidelines and controls, published by the center for disease control (CDC) as "guidelines for prevention of transmission of human immunodeficiency virus and hepatitis B virus to health-care and public-safety workers," in morbidity and mortality weekly report (MMWR), June 23, 1989, Vol. 38, No. S-6, and as "recommendations for preventing transmission of human immunodeficiency virus and hepatitis B virus to patients during exposure-prone invasive procedures," in MMWR, July 12, 1991, Vol. 40, No. RR-8. This method of infection control requires the employer and employee to assume that all human blood and specified human body fluids are infectious for HIV, HBV, and other blood pathogens. Precautions include hand washing, gloving, personal protective equipment, injury prevention, and proper handling and disposal of needles, other sharp instruments, and blood and body fluid contaminated products. (Authorized by K.S.A. 1996 Supp. 74-2702a and 65-1948 and implementing K.S.A. 1996 Supp. 65-1946 and 65-1949; effective Aug. 22, 1997.)

**Kansas Administrative Regulations – Board of Cosmetology**

**ARTICLE 15. – TATTOOING, BODY PIERCING, AND PERMANENT COSMETICS**

**69-15-7. Examination for permanent color technicians, tattoo artists, or body piercing technicians.**

- (a) The examination shall consist of both a written and a practical examination on safety, sanitation, and standards of practice.
- (b) The examination shall test the applicant's knowledge of these areas:
  - (1) Basic principles of safety, sanitation, and sterilization;
  - (2) Kansas laws and rules;
  - (3) chemical use and storage;
  - (4) diseases and disorders including skin disease, HIV, Hepatitis B, and communicable or transmittable diseases;
  - (5) equipment, supplies, tools, and implements;
  - (6) practice standards;
  - (7) facility standards; and
  - (8) definitions.
- (c) The written examination shall consist of no more than 150 multiple-choice questions and shall not exceed two hours in duration. The examination shall be closed book and shall be presented and conducted in English.
- (d) To test the applicant's knowledge of infection-control practices and practice standards, the practical examination shall evaluate the following:
  - (1) A setup for an actual procedure;
  - (2) a demonstration of a procedure; and
  - (3) a demonstration of the clean-up process for a procedure.
- (e) Examination candidates shall achieve a 75 percent or higher score on both the written and the practical sections in order to be issued a license. (Authorized by and implementing L. 1996, Ch. 138, Sec. 4 (d)(2); effective Aug. 22, 1997.)

**Kansas Administrative Regulations – Dental Board**  
**ARTICLE 1. – GENERAL RULES**

**71-1-18. Sterilization and infection control.**

(a) As used in this regulation, the following definitions shall apply:

- (1) “Dental health care worker” means dentist, dental hygienist, dental assistant, or other employee of the dentist, or any other person who performs or participates in an invasive or exposure-prone procedure or functions ancillary to invasive procedures.
- (2) “Exposure-prone procedure” means a procedure in which there is an increased risk of percutaneous injury to the dental health care worker by virtue of digital palpation of a needle tip or other sharp instrument in a body cavity or simultaneous presence of the dental health care worker’s fingers and a needle or other sharp instruments in a poorly visualized or highly confined anatomic site, or any other circumstance in which there is a significant risk of contact between the blood or body fluids of the dental health care worker and the blood or body fluids of the patient.
- (3) “HBeAg seropositive” means that the presence of the hepatitis B antigen has been confirmed by a test meeting the criteria of federal centers for disease control.
- (4) “HBV” means the hepatitis B virus.
- (5) “HIV” means the human immunodeficiency virus.
- (6) “HIV seropositive” means that the presence of HIV antibodies has been confirmed by a test meeting the criteria of the federal centers for disease control.
- (7) “Invasive procedure” means any surgical or other diagnostic or therapeutic procedure involving manual or instrumental contact with or entry into any blood, body fluids, cavity, internal organ, subcutaneous tissue, mucous membrane, or percutaneous wound of the human body.

(b) Each dental health care worker who performs or participates in an invasive or exposure-prone procedure shall observe and adhere to infection control practices and universal blood and body fluid precautions. For the purpose of infection control, all dental staff members and all patients shall be considered potential carriers of communicable diseases. Infection control procedures shall be required to prevent disease transmission from patient to doctor and staff, doctor and staff to patient, and patient to patient. Each dentist shall be required to comply with the applicable standard of care in effect at the time of treatment. Precautions shall include the following minimum standards.

- (1) Each dental health care worker shall routinely use protective barriers and surface decontamination.
  - (A) Gloves shall be used by the dentist and direct care staff during any treatment involving procedures or contact with items potentially contaminated with the patient’s bodily fluids or other dental debris. Fresh gloves shall be used for each patient. Gloves that have been used for dental treatment shall not be reused for any other purpose.
  - (B) Surgical masks and protective eyewear or chin-length plastic face shields shall be worn to protect the face, the oral mucosa, and the nasal mucosa when splashing or splattering of blood or other body fluids is likely.
  - (C) Reusable or disposable gowns, laboratory coats, or uniforms shall be worn when clothing is likely to be soiled with blood or other body fluids. If reusable gowns are worn, they may be washed, using a normal laundry cycle. Gowns shall be changed at least daily or when visibly soiled with blood.
  - (D) Surface decontamination and disinfection or protective barriers shall be used in areas of the dental operatory that may be contaminated by blood or saliva during treatment and are not removable to be sterilized. Contaminated surface coverings shall be removed, discarded, and then replaced with clean

material between patients. Surfaces to be covered or decontaminated and disinfected shall include the following:

- (i) The delivery unit;
- (ii) chair controls;
- (iii) light handles;
- (iv) the high-volume evacuator handle;
- (v) x-ray heads and controls;
- (vi) headrests; and
- (vii) instrument trays.

(E) Dental health care workers shall wash their hands after glove removal if the hands have been contaminated by bodily fluids or other dental debris.

(F) Dental health care workers who have exudative lesions or weeping dermatitis shall refrain from all direct patient care and from handling patient care devices used in exposure-prone invasive procedures, unless covered by an effective barrier.

(2) Dental health care workers shall take appropriate precautions to prevent injuries caused by needles, scalpels, and other sharp instruments during and after procedures. If during a single visit a patient needs multiple injections over time from a single syringe, the needle shall be recapped or placed in a sterile field between each use to avoid the possibility of needlestick injury or needle contamination. Used sharp items shall be placed in puncture-resistant containers for disposal.

(3) Any heat-stable instrument or device that enters tissue or contacts the mucous membranes shall be sterilized. Dental health care workers shall comply with the following sterilization requirements:

(A) Before sterilization, all instruments shall be decontaminated to remove all visible surface contamination,

including blood, saliva, tooth and dental restorative material cuttings and debris, soft tissue debris, and bacterial plaque. Decontamination of instruments may be accomplished by a thorough scrubbing with soap and water or detergent, or by using a mechanical device, including an ultrasonic cleaner. Persons involved in cleaning instruments shall take reasonable precautions to prevent injuries.

(B) Heat-stable dental instruments shall be routinely sterilized between patient use by one of the following methods:

- (i) Steam under pressure autoclaves;
- (ii) heat plus pressurized chemical (unsaturated formaldehyde or alcohol);
- (iii) vapor chemoclave;
- (iv) prolonged dry heat exposure;
- (v) dry heat convection sterilizers;
- (vi) ethylene oxide sterilizers; or
- (vii) other equivalent methods.

(C) Biological spore testing devices shall be used on each sterilization unit after each six days of use, but not less often than each month, to verify that all pathogens have been killed. A log of spore testing shall be kept for three years for each sterilization unit.

(D) Items to be sterilized shall include the following:

- (i) Low-speed handpiece contra-angles and prophylaxis-angles;
- (ii) high-speed handpieces;
- (iii) hand instruments;
- (iv) burs;
- (v) endodontic instruments;
- (vi) air-water syringe tips;

(vii) high-volume evacuator tips;

(viii) surgical instruments; and (ix) sonic or ultrasonic periodontal scalers.

(E) When sterilizing the heat-stable instruments or devices listed in paragraphs (b)(3)(D)(i) through (ix), each instrument or device shall be placed in a closed bag or container for sterilization and thereafter maintained in that bag or container until immediately before use.

(F) Following the sterilization of heat-stable instruments or devices not listed in paragraphs (b)(3)(D)(i) through (ix), each instrument or device shall be maintained in covered storage until immediately before use.

(G) Nondisposable items used in noninvasive procedures that cannot be heat sterilized shall be decontaminated and disinfected with a chemical sterilant that has been registered by the U.S. Environmental Protection Agency and is tuberculocidal.

(H) Materials, impressions, and intra-oral appliances shall be decontaminated and disinfected before being sent to and upon return from a commercial dental laboratory.

(I) A dental health care worker who is HBeAg seropositive or HIV seropositive, or who otherwise knows or should know that the worker carries and is capable of transmitting HBV or HIV, shall not thereafter perform or participate directly in an exposure-prone procedure unless the worker has sought counsel from an expert review panel. The expert review panel shall be composed of these individuals:

(i) The dental health care worker's personal physician;

(ii) an infectious disease specialist with expertise in HIV and HBV transmission;

(iii) a dentist licensed in the state of Kansas with expertise in procedures performed by the health care worker; and

(iv) a state of Kansas or local public health official.

(c) Reports and information furnished to the Kansas dental board relative to the HBeAg or HIV status of a dental health care worker shall not be deemed to constitute a public record but shall be deemed and maintained by the board as confidential and privileged as a medical record. These reports and this information shall not be subject to disclosure by means of subpoena in any judicial, administrative, or investigative proceeding, if the dental health care worker adheres to the regulations of the board and is willing to participate in counseling and be reviewed and monitored by the board or its designated agent.

(d) When the board learns that a dental health care worker is HBeAg or HIV seropositive, contact shall be made with that dental health care worker to review the regulations of the board and develop a process of monitoring that individual's practice.

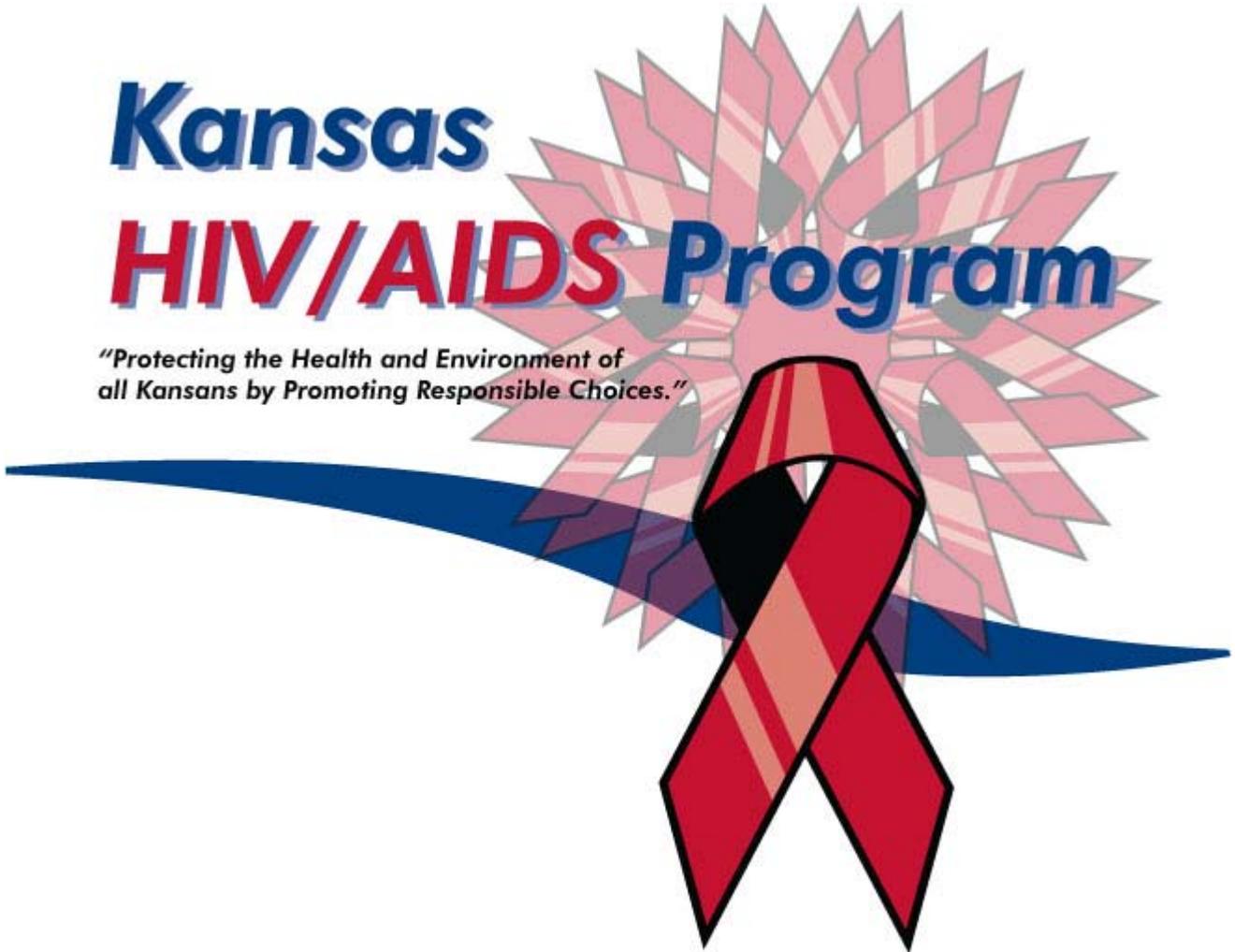
(e) The monitoring of a dental health care worker's HIV or HBV status and discipline of the dental health care worker shall be reported to the Kansas department of health and environment, but shall remain confidential.

(f) During business hours, the office of a licensed dentist may be inspected by the Kansas dental board or its duly authorized agents and employees in order to evaluate compliance with this regulation. A written evaluation shall be given to the licensed person or office representative, and a copy shall be filed with the Kansas dental board. (Authorized by K.S.A. 74-1406; implementing K.S.A. 1998 Supp. 65-1436; effective Dec. 27, 1993; amended Jan. 3, 2000.)

This document was compiled by the Bureau of Disease Control and Prevention, HIV/AIDS Program. The electronic version can be found on our website at <http://www.kdheks.gov/hiv>.

# Kansas HIV/AIDS Program

*"Protecting the Health and Environment of  
all Kansans by Promoting Responsible Choices."*



*The HIV/AIDS Program works to promote public health and enhance the quality of life for Kansas residents by the prevention, intervention, and treatment of HIV and AIDS.*

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