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LA Title 40 § 1300.14 - Confidentiality of HIV information

[Practice note - With only limited exceptions, this law treats HIV info like other medical info. Since the law is full of exceptions, the conditions on release depend on the context of request. One clear point seems to be that section A means that these provisions do not apply at all unless the authorization to release records - which [HIPAA](#) is going to require for any release - specifically says not to release the HIV info. If the patient just signs a general release, then this law is not triggered and the HIV info is treated the same as the medical info in the chart.]

§1300.14. Confidentiality of HIV test result; disclosure

A. Except as otherwise provided by law, no person who obtains, retains, or becomes the recipient of confidential HIV test results in the course of providing any health or social service or pursuant to a release of confidential HIV test results may disclose such information pursuant to a written authorization to release medical information when such authorization contains a refusal to release HIV test results.

B. Notwithstanding the provisions of Subsection A, HIV test results may be released to the following:

(1) Any person to whom disclosure of medical information is authorized by law without the consent of the patient.

(2) Any agent or employee of a health facility or health care provider if:

(a) The agent or employee is permitted access to medical records.

(b) The health facility or health care provider is authorized to obtain the HIV test results.

(c) The agent or employee provides health care to the patient or

maintains or processes medical records for billing or reimbursement purposes.

(3) A health care provider or health facility, when knowledge of the HIV test results is necessary to provide appropriate care or treatment to the patient and afford the health care provider and the personnel of the health facility an opportunity to protect themselves from transmission of the virus.

(4) A health facility or health care provider, in relation to the procurement, processing, distributing, or use of a human body or a human body part, including organs, tissues, eyes, bones, arteries, blood, semen, or other body fluids, for use in medical education, research, therapy, or transplantation.

(5) Any health facility staff committees or accreditation or oversight review organizations authorized to access medical records, provided that the committee or organization shall only disclose confidential HIV test results:

(a) To the facility or provider of a health or social service.

(b) To a federal, state, or local government agency for the purposes of and subject to the conditions provided in Paragraph (6) of this Subsection.

(c) To carry out the monitoring evaluation, or service for which it was obtained.

(6) A federal, state, parish, or local health officer when the disclosure is mandated by federal or state law.

(7) An agency or individual in connection with the foster care programs of the Department of Social Services or an agency or individual in connection with the adoption of a child.

(8) Any person to whom disclosure is ordered by a court of competent jurisdiction.

(9) An employee or agent of the Board of Parole of the Department of Public Safety and Corrections to the extent that the employee or agent is authorized to access records containing HIV test results in order to implement the functions, powers, and duties with respect to the individual patient of the Board of Parole, Department of Public Safety and Corrections.

(10) An employee or agent of the office of probation and parole of the Department of Public Safety and Corrections, division of correction services, to the extent the employee or agent is authorized to access records containing HIV test results in order to carry out the functions, powers, and duties, with respect to patient of the office.

(11) A medical director of a local correctional facility, to the extent the medical director is authorized to access records containing HIV test results in order to carry out the functions, powers, and duties with respect to the patient.

(12) An employee or agent of the Department of Public Safety and Corrections, to the extent the employee or agent is authorized to access records containing HIV test results in order to carry out the Department of Public Safety and Corrections functions, powers, and duties with respect to the patient.

(13) An employee or agent who is authorized by the Department of Social Services, office of rehabilitative services to access records containing HIV test results in order to carry out the Department of Social Services, office of rehabilitative services functions, powers, and duties with respect to the protected patient.

(14) An insurer, insurance administrator, self-insured employer, self-insurance trust, or other person or entity responsible for paying or determining payment for medical services to the extent necessary to secure payment for those services.

C. A state, parish, or local health officer may disclose confidential HIV test results when:

(1) Disclosure is specifically authorized or required by federal or state law.

(2) Disclosure is made pursuant to a release of confidential HIV test results.

(3) Disclosure is requested by a physician pursuant to Subsection E of this Section.

(4) Disclosure is authorized by court order.

D. No person to whom confidential HIV test results have been disclosed pursuant to this Part shall disclose the information to another person except as authorized by this Part, provided, however, that the provisions of this Subsection shall not apply to the individual or to a natural person who is authorized by law to consent to health care for the individual.

E.

(1) A physician may disclose confidential HIV test results under all of the following conditions:

(a) Disclosure is made to a contact, or to a public health officer for the purpose of making the disclosure to said contact.

(b) The physician reasonably believes disclosure is medically appropriate, and there is a significant risk of infection to the contact.

(c) The physician has counseled the patient regarding the need to notify the contact, and the physician reasonably believes the patient will not inform the contact.

(d) The physician has informed the patient of his or her intent to make such disclosure to a contact and has given the patient the opportunity to express a preference as to whether disclosure should be made by the physician directly or to a public health officer for the purpose of said disclosure. If the patient expresses a preference for disclosure by a public health officer or by the physician the physician shall honor such preference.

(2) When making such disclosures to the contact, the physician or public health officer shall provide or make referrals for the provision of the appropriate medical advice and counseling for coping with the emotional consequences of the knowledge of the information and for alteration of behavior to prevent transmission or contraction of HIV infection. The physician or public health officer shall not disclose the identity of the patient or the identity of any other contact. A physician or public health officer making a notification pursuant to this Subsection shall make such disclosure in person, except where circumstances reasonably prevent doing so.

(3) A physician shall have no obligation to identify or locate any contact.

(4) A physician may, upon the consent of a parent or guardian, disclose confidential HIV test results to a state, parish, or local health officer for the purpose of reviewing the medical history of a child to determine the fitness of the child to attend school.

(5) A physician may disclose confidential HIV test results pertaining to a patient to a person authorized by law to consent to health care for the patient when the physician reasonably believes that disclosure is medically necessary in order to

provide timely care and treatment for the patient and, after appropriate counseling as to the need for such disclosure, the patient has not and will not inform the person authorized by law to consent to health care. The physician shall not make such disclosure if, in the judgment of the physician, the disclosure would not be in the best interest of the patient or of the individual authorized by law to consent to such care and treatment. Any decision or action by a physician pursuant to this Paragraph and the basis thereof shall be recorded in the patient's medical record.

F. A physician may choose, notwithstanding any other provision of law to the contrary, not to disclose the results of a confidential HIV test to a person upon whom such a test has been performed when in the medical opinion of the physician the disclosure of such results would be medically contraindicated.

Acts 1991, No. 1054, §1.

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