

# Regulation 61-21

## Sexually Transmitted Diseases

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## A. Definitions

(1) Sexually transmitted diseases or STDs -Any of a diverse group of infections caused by biologically dissimilar pathogens and transmitted by sexual contact. Sexual transmission is the only important mode of spread of some of the infections in the group while others can also be acquired by non-sexual means. These infections include but are not limited to: syphilis, gonorrhea, granuloma inguinale, lymphogranuloma venereum, chancroid, genital herpes, chlamydia infection, nongonococcal urethritis, hepatitis B, hepatitis C, pelvic inflammatory disease, and human immunodeficiency virus infection.

(2) AIDS -Acquired Immunodeficiency Syndrome; that medical condition that meets the most recent AIDS case definition of the Centers for Disease Control (CDC).

(3) Department -The South Carolina Department of Health and Environmental Control.

(4) CDC -The Centers for Disease Control of the United States Public Health Service.

(5) HIV -Human Immunodeficiency Virus, identified as the cause of HIV infection and AIDS.

(6) HIV Test -Any diagnostic test or series of tests generally accepted by medical, laboratory or public health authorities for determining infection of an individual with HIV.

(7) HIV Infection or HIV Infected -Infected with HIV, as evidenced by a positive HIV test validated by an approved confirmatory HIV test or other test or combination of tests considered valid by the Department.

(8) Contact (referring to a person) -A person who has been exposed or has been reported to have been exposed to semen, vaginal fluids, blood, or body fluids containing blood, or other body fluids designated as infectious for HIV by the CDC or the Department.

(9) Contact (referring to a behavior) -A behavior that may result in exposure to another person's semen, vaginal fluids, blood, or body fluids containing blood, or other body fluids designated as infectious for HIV by the CDC or the Department. These behaviors include but are not limited to sexual activity, needle/drug paraphernalia sharing activities, or perinatal transmission which may result in such exposure.

(10) Expose -To present or subject another person to direct contact with semen, vaginal fluids, blood, tissue, organs or body fluids containing blood, or other body fluids designated as infectious by the Department. For purposes of determining sexual exposure to HIV, the proper use of condoms and nonoxynol-9 or other chemical agents recommended by public authorities reduces but does not eliminate the risk of exposure of a sexual partner to HIV infection. The use of bleach to clean needles and/or IV drug equipment reduces but does not eliminate the risk of exposure to a needle-sharing partner to HIV infection.

(11) Suspected STD infection or person suspected of being infected with STD -Person who has had an exposure to STD infection or has been identified as a contact to an STD infected person and whose STD status is unknown.

(12) Lay healthcare giver -Person who is not a licensed health professional and who is or soon will be providing direct hands on healthcare, which poses a significant risk of exposure that may result in HIV or Hepatitis B transmission to the lay healthcare giver from the infected person.

**B. Sexually transmitted diseases declared dangerous to the public health.** Sexually transmitted diseases are declared to be contagious, infectious, communicable, and dangerous to the public health. Sexually

transmitted diseases include all diseases or infections spread through person-to-person sexual contact which are included in the annual Department of Health and Environmental Control List of Reportable Diseases.

### **C. Reporting of sexually transmitted diseases.**

(1) Any physician or other health professional who diagnoses or treats a case of sexually transmitted disease, and any administrator, superintendent, manager or Infection Control Practitioner of a hospital, dispensary, health care related facility, blood bank, plasma center, or charitable or penal institution in which there is a case of sexually transmitted disease shall report to the Department the case by name, date of birth, address, county of residence, sex, race, the probable date of onset of infection and the name of the physician of record. In addition, the Department may require reporting to the health authorities of the probable risk behavior leading to infection, the probable stage of infection if appropriate and other necessary information according to the form and manner as the Department directs.

(2) Each hospital, dispensary, health care related facility, blood bank, plasma center, penal or charitable institution required to report must designate to the Department at least one person, hereinafter referred to as Reporting Coordinator, who must coordinate reporting and will be responsible for ensuring that the reporting requirements of the Department are met. Written inquiries from the Department to physicians, health professionals, Reporting Coordinators, Infection Control Practitioners, and administrators regarding reporting must be answered in writing and must be mailed to the Department within fifteen days.

(3) In addition, for purposes of reporting of HIV, a completed confidential disease report form, including the positive HIV test result, is required. For purposes of reporting cases of AIDS, a completed AIDS case report form is required. For other sexually transmitted diseases, reporting is required in the form or manner specified by the Department. All information and reports in connection with persons infected with sexually transmitted diseases shall be kept strictly confidential in accordance with state law.

### **D. Laboratory reporting.**

Any laboratory performing tests for a sexually transmitted disease shall submit a report of all positive laboratory test results for sexually transmitted diseases to the Department in the form and manner as the Department directs. For purposes of reporting sexually transmitted diseases, the positive test result, the patient's name, the name and address of physician of record, clinic, hospital, or other health care provider submitting the specimen for testing, the date the specimen was received, and the sex and race of the patient shall be reported to the Department in the form and manner that the Department directs. When accompanying the specimen, the age or date of birth of the patient, the patient's address and county of residence must also be reported. All information and reports in connection with test results indicating sexually transmitted disease shall be kept strictly confidential in accordance with state law.

### **E. Use of HIV test reports, AIDS case reports, and other STD reports.**

The Department may utilize the reports of HIV, AIDS and other STD cases for the following purposes: partner notification services, counseling services, referral for medical management and social services, epidemiologic surveillance, protection of the public health, control of the spread of the disease, and offering laboratory services for monitoring disease progression. To the extent resources are available, the Department may develop cooperatively with the reporting physician or other health professional a plan for providing the above services.

## **F. Verification of HIV test reports, AIDS case reports, other STD reports and Epidemiological Surveillance.**

For purposes of report verification and epidemiological surveillance, the Department may conduct appropriate follow-up of HIV test reports, AIDS case reports, and other STD reports. Such follow-up may include, but is not limited to, confirmation of HIV or other STD test results, collection and confirmation of other information required to be reported, review of hospital and physician medical records, interviews of physician and other appropriate staff, interviews of patient, interviews of contacts who may have been exposed to HIV. If the patient is incompetent or deceased, the Department may interview the patient's physician, guardian, next of kin, spouse, or contacts, and follow the CDC or the Department protocols for conducting "No Identified Risk" (NIR) investigations.

## **G. Confidentiality.**

(1) Records kept confidential. All information and records held by the Department or its agents shall be strictly confidential. The information must not be released or made public, upon subpoena or otherwise, except in accordance with Section 44-29-135 and these regulations. Release may be made of medical or epidemiological information to the extent necessary to notify contacts (partner notification) as provided in Section 44-29-90 and 44-29-146.

(2) Disclosure to medical personnel to protect health or life of any person.

(a) If disclosure or release of STD information is allowed to medical personnel to protect the health or life of any person pursuant to Section 44-29-135(d), that relevant portion of the person's STD record may be released to the person's physician if the physician needs to know the information in order to plan and develop a course of treatment necessary for the treatment of the person's medical condition. Whenever the Department releases confidential, identifying STD information pursuant to this subsection (2)(a), the Department will first make an attempt to obtain the consent of the patient to release the information. If consent cannot be obtained, and the release is made, the Department will make an attempt to inform the patient of what information was released and to whom.

(b) When a person who has tested positive for an STD accepts a referral from the Department to a physician and/or health professional for medical care, the Department may provide the STD information to the physician and/or health professional directly involved in the medical care of the patient if the physician and/or health professional has a need to know the information in order to plan and develop a course of treatment necessary for the patient. In the case of a pregnant patient who is referred by the Department to a physician and/or health professional for medical care, the Department may provide the STD information to the physician and/or health professional directly involved in the medical care of the pregnant patient if the physician and/or health professional has a need to know the STD information in order to plan and develop a course of treatment necessary for the pregnant female and/or her newborn(s). Whenever the Department releases confidential, identifying STD information pursuant to this subsection (2)(b), the Department will first make an attempt to obtain the consent of the patient to release the information. If consent cannot be obtained, and the release is made, the Department will make an attempt to inform the patient of what information was released and to whom.

(c) The Department may share with health departments located in other states and which are responsible for the control of STD's all information necessary for those health departments to carry out their public health mandates.

(d) If a person infected with HIV, Hepatitis B or syphilis informs the Department, or the Department learns, that he/she has, during a period of probable infection, donated or sold blood, semen, tissue, organs

or other body fluids determined to be infectious by the Department, the Department may disclose or release the name of the donor only to the entity which collected the infected blood or body product. The information may be given to the collecting entity to protect the recipient and/or the blood or body product supply. The entity which collected the blood or body product must not release to any other person the information identifying the donor provided by the Department and such information must be kept strictly confidential. Whenever the Department releases confidential, identifying STD information pursuant to this subsection (2)(d), the Department will first make an attempt to obtain the consent of the patient to release the information. If consent cannot be obtained, and the release is made, the Department will make an attempt to inform the patient of what information was released and to whom.

(3) Notification of Public Schools of minors infected with HIV. When disclosure of a minor's HIV infection is reported to a public school superintendent, school nurse, or other health professional assigned to the public school pursuant to Section 44-29-135(e), the information released must be kept strictly confidential by the school superintendent, school nurse, or other health professional assigned to the public school and should only be revealed to public school personnel who have a bona fide need to know. All persons receiving the information must keep the information strictly confidential. Violation of this regulation may result in imposition of penalties as set forth in Sections 44-1-150 and 44-29-140 South Carolina Code of Laws and other applicable penalties. The method for notification of public schools is contained in Section H.(3)(a).

(4) Notification of biological parents, foster parents, persons in loco parentis, adoptive parents or guardians, functioning in a direct supervising role, of the HIV and/or Hepatitis B infected status of minors under age sixteen, persons with intellectual disability, or mentally incompetent persons. When in the judgement of the Department or the attending physician, it is necessary to protect the health or well-being of persons listed in (a), (b), or (c) below, or persons serving in a direct supervising role to persons listed in (a), (b), or (c) below or to protect the public health, the Department or the attending physician may inform, if they function in a direct supervising role, biological parents, foster parents, persons in loco parentis, adoptive parents, or guardians of the HIV and/or Hepatitis B infected status of the following persons:

(a) IV and/or Hepatitis B infected minor under age sixteen,

(b) HIV and/or Hepatitis B infected person with intellectual disability, or

(c) HIV and/or Hepatitis B infected mentally incompetent person. Any disclosure made by the Department shall only be made when in the judgment of the Department it is necessary to protect the health or well-being of the persons listed in (a), (b), or (c) above, or persons serving in a direct supervising role to persons listed in (a), (b) or (c) above, or to protect the public health.

If the Department or the attending physician discloses the HIV and/or Hepatitis B infected status of persons listed in (a) through (c) above to any of the persons serving in a direct supervising role, counseling must also be provided. Such counseling should include education regarding modes of transmission, health care needs of the particular person, recommended precautions in handling blood and body fluids and information on available community resources. Whenever the Department releases confidential, identifying STD information pursuant to this subsection 4(a)(b)(c), the Department will first make an attempt to obtain the consent of the patient to release the information. If consent cannot be obtained, and the release is made, the Department will make an attempt to inform the patient of what information was released and to whom.

(5) Notification of lay healthcare givers of the HIV and/or Hepatitis B infected status of persons to whom they are providing health care which may result in HIV and/or Hepatitis B exposure.

(a) The Department or the attending physician may inform a lay healthcare giver who is or soon will be providing health care to an HIV or Hepatitis B infected person of the HIV and/or Hepatitis B infective status of the person to whom the lay healthcare giver is providing health care, if in the opinion of the Department or the attending physician, the nature of the contact resulting from the care:

(1) poses a significant risk of exposure that may result in HIV and/or Hepatitis B transmission to the lay healthcare giver, and

(2) if the Department or the attending physician has reason to believe that the infected person, paraite the Department or physician's encouragement, has not told or will not tell the lay healthcare giver of his HIV and/or Hepatitis B infection.

(b) Before notifying the lay healthcare giver, the Department or the attending physician must notify the HIV and/or Hepatitis B infected person that the disclosure will be made and to whom it will be made. If the disclosure is made to the lay healthcare giver the Department or attending physician must notify the HIV and/or Hepatitis B infected person of the disclosure and to whom it was made. When the information is disclosed to the lay healthcare giver, counseling must also be provided. Such counseling must include education regarding health care needs of the infected person and recommended precautions in handling blood and body fluids and the necessity for confidentiality.

(6) No access to the Department STD/HIV/AIDS Records. No institution, facility, organization, agency, other entity or person shall have access to the Department STD/HIV/AIDS Records under any circumstances other than those outlined in Section 44-29-135 or Section G of these regulations.

## **H. School Attendance Considerations and Notification Requirements.**

(1) Attendance considerations. In general, most children with HIV infection or disease should be allowed to attend school without restrictions and without fear of spread of the virus to their classmates, teachers, or other personnel in the school environment. Infected children should be permitted to participate in all regular school activities, provided their health status allows it. Medical evaluation by the child's primary health care provider should be ongoing to evaluate changes in the child's health. As appropriate, the child's health status may be monitored periodically by the child's parent/guardian, personal physician, appropriate public health professional and/or appropriate school personnel. Evaluation of the child's potential for transmitting the virus should be made by the health care professional(s) evaluating the child's health status. Information shared during this monitoring process shall be held strictly confidential, and release of this information shall be strictly limited to those persons who have a need to know.

(2) Requirement to notify public schools. In accordance with Section 44-29-135 S.C. Code of Laws, as amended, if a minor has AIDS or is infected with HIV and is attending a public school in kindergarten through fifth grade, the superintendent of the school district and the school nurse or other health professional assigned to the school the minor attends must be notified. The information given to the district superintendent and/or the school nurse or other health professional must be kept strictly confidential and should only be revealed to school personnel who have a bona fide need to know. All persons receiving this information must keep the information strictly confidential. Violation of this regulation may result in imposition of penalties as set forth in Sections 44-1-150 and 44-29-140 South Carolina Code of Laws and other applicable penalties.

(3) Method of notification of public schools:

(a) The Department shall notify the school superintendent and school nurse or other health professional assigned to the public school of the minor's HIV infection in a confidential meeting. During this meeting,

the Department will provide either in writing or verbally to the superintendent and school nurse or other health professional the following information: name, date of birth of minor, and address, if known, name of public school which minor attends, if known, and the medical status of the minor, if known.

(b) The Department shall provide to the superintendent and school nurse or other health professional current Department recommendations concerning school attendance of HIV infected minor students.

(c) The Department may make available to the superintendent the services of Department personnel and/or appropriate educational materials to assist the superintendent in providing HIV/AIDS education for staff and students.

### **I. Day Care.**

(1) Infants, children, adolescents and adults with HIV infection/disease should be admitted to day care if their health, behavior and immune status are appropriate. The decision to admit or retain an infected person should be made on a case-by-case basis. This decision should be made by the person's physician and/or appropriate public health professional, and appropriate day care personnel. The day care personnel will evaluate and monitor the person's health in the setting and the potential threat of infecting others.

(2) The day care personnel must keep all information regarding the person's HIV status strictly confidential and such day care personnel should reveal the information only to those day care workers who have a bona fide need to know.

**J. Handling of Blood and Body Fluids in Schools and Day Care Centers.** Blood and body fluids should be handled in accordance with the most current Department recommendations for the handling of blood and body fluids in schools and day care centers.

### **K. Recalcitrant HIV infected persons.**

(1) For purposes of this section, a recalcitrant person is defined as one who is infected with HIV and who either:

(a) refuses curative treatment, or

(b) if while receiving treatment continues to be infectious and engages in behavior which exposes another person or the public to HIV, or

(c) if no cure is available, refuses to receive counseling or, parasite counseling, the person continues to engage in behavior, which exposes another person or the public to HIV.

(2) For purposes of this section, counseling is defined as providing information about HIV infection, the significant threat HIV infection poses to other members of the public and methods to minimize the risk to the public.

(3) The Department must when feasible attempt to work with the recalcitrant person to modify his or her behavior before seeking isolation of the recalcitrant person. This requirement will be satisfied by the Department's fulfilling the following:

(a) Attempting on at least three occasions at various times of day, to set up an appointment for counseling or to meet the person at a designated location and provide counseling. If the person cannot be located, a generic appointment letter, without identifying any infection by name, requiring the person to



report to the local health department, may be sent to the person by certified mail, return receipt requested, or may be left at the person's residence. If counseling is obtained at a place other than the local health department, verification of that counseling in the form of a statement signed by the counselor must be provided to the Department.

(b) Offering counseling and/or referring to other appropriate professional and/or agencies for support services,

(c) If the Department has been unable to locate the recalcitrant person or the person has refused counseling, the Department must mail to the person's last known address a certified letter stating the behavior modifications listed below and the recalcitrant person's obligation to follow these modifications. The letter must also state that failure to comply with these control measures may result in the issuance of a public health order and/or petition for isolation. If the recalcitrant person refuses to avail himself of counseling or referral services, the Department will have been deemed to have met its obligation to attempt to work with the recalcitrant person to modify his or her behavior.

(4) In cases of recalcitrant persons who have HIV infection, modification of behavior must include cessation of behaviors that expose other persons to HIV. The Department may issue a public health order requiring the recalcitrant person to comply with appropriate directives to protect the public health. These directives may include, but are not limited to, any or all of the following:

(a) Immediately report for counseling, social work assessment, testing, or treatment;

(b) Refrain from anal, vaginal or oral intercourse, unless partner is informed of risk of infection and consents to sexual activity;

(c) Always use condoms as recommended by public authorities during anal, vaginal or oral intercourse and exercise caution when using condoms due to possible condom failure or improper use;

(d) Do not share needles or syringes unless the needle and syringes have been properly cleaned after each person uses them;

(e) Have a skin test for tuberculosis;

(f) Notify all sexual and/or needle-sharing partners of the infection;

(g) If the exact time or general time period of initial infection is known, notify or request the Department to notify sexual and/or needle-sharing partners since the date or time period of infection;

(h) If the time of initial infection is unknown, notify or request the Department to notify sexual and/or needle-sharing partners for at least the previous three years;

(i) Do not donate or sell body parts or body fluids.

(5) If the Department has reason to believe that a recalcitrant person has failed to comply with the specified behavior modifications, has forcibly or without forewarning exposed another person to HIV infection, and should be isolated pursuant to Section 44-29-115 South Carolina Code of Laws, the Department may seek isolation of that person. Isolation may be sought after reasonable means of correcting the problem have been exhausted. In order to protect the public health and encourage persons to seek HIV testing and counseling, it may be necessary for the Department and other necessary state agencies to work with persons over time to modify recalcitrant behavior.

#### **L. Prisons and STD/HIV infected prisoners.**

(1) To the extent resources are available, the Department may provide STD/HIV counseling and testing and educational resources to prisoners upon the reasonable request of any individual prisoner or prison or jail official. When the Department is asked to conduct testing in or for prisons or jails, the Department may require pre-test and post-test counseling to accompany HIV testing conducted by the Department.

(2) If a prisoner is suffering from HIV infection, AIDS or any sexually transmitted disease for which there is no cure, the prisoner's medical condition shall not be a reason for further confinement. It is the recommendation of the Department that no prisoner be confined beyond the expiration of his/her sentence simply because he/she is infected with HIV or any other sexually transmitted disease for which there is no cure. When it is known to the prison or jail that a prisoner to be released is infected with HIV, or any other STD upon the release of the infected prisoner, the facility from which the prisoner has been released shall provide the prisoner with the telephone number and address of the local health department of the prisoner's anticipated county of residence. Prior to the release of the prisoner, the prison or jail must also provide the Department of Health and Environmental Control with the name, release date, sex, date of birth, race, and, if available, address and other locating/identifying information concerning the prisoner. The Department may then require the infected prisoner to report for counseling and/or other related services.

(3) In order to protect the public health, all prisons and jails should allow during visits of prisoners and their sexual partners to possess and use condoms recommended by public health authorities. The prison or jail is not required by these regulations to expend public monies to purchase condoms, for either prisoners or visitors.

#### **M. Counseling and Testing of Persons Charged with Crimes Involving Needle Use or Prostitution.**

Any person charged with any crime involving needle use or prostitution may be required by the Department to undergo testing for sexually transmitted diseases, including HIV, and, if infected, shall submit to treatment and counseling. Such testing may be conducted within the discretion of the Department. Counseling should always be offered before and after testing.

#### **N. Blinded Anonymous Epidemiological Studies Conducted by the Department.**

Whenever the Department determines it appropriate, the Department may conduct blinded anonymous epidemiological studies. As these tests and studies cannot be performed unless blinded and anonymous, results of the tests cannot be divulged to any person and cannot be reported, except in an epidemiological or statistical form that would not identify any individual. These studies are designed only for research purposes to ascertain the prevalence of infection in various settings and points of time.

#### **O. Notifying patients and/or health care providers of persons co-infected with both HIV and another reportable, communicable disease.**

Periodically the Department may match its registry of HIV infected persons with its registries of persons infected with other reportable, communicable diseases, such as, but not limited to, tuberculosis or syphilis. Upon finding such matches, the Department may notify those persons at increased risk of complications from HIV co-infection with another communicable disease. The Department may, in a strictly confidential manner, release necessary information to the person and/or his health care provider to protect the health of both the HIV infected individual and the public where there is an increased risk of the communicable disease.

**P. Recommendation to instruct.**

It is recommended that any physician or health care professional who examines, counsels or treats a person infected with a sexually transmitted disease should instruct, or note that the infected person has been instructed, in measures for preventing the spread of such infection and of the necessity for treatment.

**Q. Prescribing, compounding or selling any drugs, medicines, or other substances for the cure of any STD.**

Persons other than licensed physicians are forbidden to prescribe, and persons other than licensed physicians or pharmacists are forbidden to compound or sell any drugs, medicines, or other substances for the cure of any sexually transmitted disease.

**R. Issuing certificates of freedom from sexually transmitted diseases prohibited.**

Physicians, health officers, and all other persons are prohibited from issuing certificates of freedom from sexually transmitted disease or infection, provided this rule shall not prevent the issuance of necessary statements of freedom from infectious diseases written in such form as required for bona fide medical purposes.

**S. Sexually Transmitted Diseases other than HIV.**

Where these regulations specifically refer to only HIV, they shall be applicable only to HIV/AIDS and not to other sexually transmitted diseases. Where these regulations refer to sexually transmitted diseases generally or HIV and other sexually transmitted diseases, they shall be applicable to all sexually transmitted diseases.

**T. Severability.**

If any provision of these regulations or the application thereof to any facility, individual or circumstance shall be held invalid, such invalidity shall not affect the provisions or application of the regulations which can be given effect, and to this end the provisions of the regulations are declared to be severable.