

**Department of State Health Services
Council Agenda Memo for State Health Services Council
April 10, 2008**

Agenda Item Title: Amendments to rules concerning Sexually Transmitted Diseases (STD) Including Acquired Immunodeficiency Syndrome (AIDS) and Human Immunodeficiency Virus (HIV)

Agenda Number: 4b

Recommended Council Action:

For Discussion Only

For Discussion and Action by the Council

Background: The HIV/STD Comprehensive Services Branch of the Health Promotions Unit is responsible for the treatment and prevention of HIV and STD in Texas. The Branch implements HIV/STD disease intervention, treatment and service programs through contracts and relationships with local city and county health departments, private physicians, area hospitals and community clinics. The Branch also implements HIV/STD prevention programs through contracts and relationships with local community organizations.

Funding for the program is through the Centers for Disease Control, Health and Rehabilitative Services Administration, Housing and Urban Development and State Services funds.

Summary:

Sections 97.135-97.146 govern HIV testing during pregnancy and of persons indicted for certain offenses, cost of providing the HIV Counseling course, HIV model workplace guidelines, counseling and testing for state workers exposed to HIV on the job, and the availability of anonymous and confidential HIV testing. Amendments are proposed for these rules to more efficiently and accurately track statutory requirements, to clarify and update the rules, and to improve readability as part of the required four-year review of all these rule sections under the Government Code, §2001.039.

Summary of Input from Stakeholder Groups:

The HIV/STD Comprehensive Services Branch sent an announcement seeking comment in the HIV/STD E-Update, which has 1750 subscribers, and placed the proposed rules on the HIV/STD website. The Branch received only one request for revision, which was from the Texas Association Against Sexual Assault (TAASA). TAASA requested a revision to mirror federal law to §97.138 *Guidelines for Testing Certain Indicted Persons for Certain Disease*, stating “the results of the HIV testing of the indicted must be provided to the victim of the alleged offense within 48-hours.” After research, DSHS legal representatives deemed the requested revision overstepped current law as the current statute does not require a judge to order HIV testing in this circumstance. DSHS cannot institute the requested changes without a preceding change in Texas legislation.

Proposed Motion: Motion to recommend HHSC approval for publication of rules contained in agenda item #4b.

Approved by Assistant Commissioner/Director: Adolfo Valadez, M.D., M.P.H. **Date:** March 19, 2008

Presenter: Ann Robbins **Program:** HIV/STD Comprehensive Services Branch **Phone:** (512) 458-7729

Approved by CCEA: Rosamaria Murillo **Date:** March 17, 2008

Title 25. HEALTH SERVICES

Part 1. DEPARTMENT OF STATE HEALTH SERVICES

Chapter 97. Communicable Diseases

Subchapter F. Sexually Transmitted Diseases Including Acquired Immunodeficiency Syndrome (AIDS) and Human Immunodeficiency Virus (HIV)

Amendments §§97.135 - 97.138, 97.140 - 97.146

Proposed Preamble

The Executive Commissioner of the Health and Human Services Commission on behalf of the Department of State Health Services (department) proposes amendments to §§97.135 -97.138 and §§97.140 - 97.146, concerning Sexually Transmitted Diseases (STD) Including Acquired Immunodeficiency Syndrome (AIDS) and Human Immunodeficiency Virus (HIV).

BACKGROUND AND PURPOSE

Government Code, §2001.039, requires that each state agency review and consider for re-adoption each rule adopted by that agency pursuant to the Government Code, Chapter 2001 (Administrative Procedure Act). Sections 97.135 - 97.138 and §§97.140 - 97.146 have been reviewed and the department has determined that reasons for adopting the sections continue to exist because rules on this subject are needed. Amendments are proposed for these rules to more efficiently track statutory requirements, to clarify and update the rules, and to improve readability.

SECTION-BY-SECTION SUMMARY

The department proposes amendments to §§97.135 - 97.138 and §§97.140 - 97.146 to more efficiently track statutory requirements, to clarify and update the rules, and to improve readability.

Proposed changes at §97.135(a)(1)(A) would add language to better reflect the content of the materials referenced in Health and Safety Code, §81.090(k), would update the agency name, and would improve readability. Proposed changes at §97.135(a)(1)(B)(ii) would improve clarity and readability. Proposed changes at §97.135(a)(1)(C) would improve clarity by identifying the Clinical Laboratory Improvement Amendments of 1988 (CLIA) as a federal law, and would improve readability. Proposed changes at §97.135(a)(1)(D) would add language to reflect requirements at Health and Safety Code, §81.090(a)(3). Proposed changes at §97.135(a)(2)(A) would update the agency name and would improve readability. Proposed changes at §97.135(a)(2)(B)(ii) would improve clarity and readability. Proposed changes at §97.135(a)(2)(C) would improve clarity by identifying CLIA as a federal law, and would improve readability. Proposed changes at §97.135(a)(4)(A) would add language to better reflect the requirements at Health and Safety Code, §81.090(m). Proposed changes at §97.135(a)(4)(B) would add language to better reflect the requirements at Health and Safety Code, §81.090(n). Proposed changes at §97.135(a)(5) would better reflect the requirements of Health and Safety Code, §81.090(m)(2) by adding the term “AIDS”, and by deleting rule text referring to the content of counseling and instead inserting a cross-reference to the requirements in Health and Safety Code, §81.109.

Proposed amendments to §97.136(a) would revise text for ease of readability. Proposed changes to §97.136(c) would update the agency name. New proposed §97.136(d) would insert a cross-reference to additional requirements for midwives found at Health and Safety Code, §81.091.

Proposed amendments to §97.137(a) would revise text for readability and clarity. Proposed changes to §97.137(c) would delete the first sentence since the idea is more fully expressed in the federal guidance documents already referenced in the rule. Proposed changes to §97.137(c) would also clarify what federal documents are being cross-referenced. Proposed changes to §97.137(d) would update legacy agency references. New §97.137(e) is proposed to cross-reference the requirements and information found at Health and Safety Code, §§85.201-85.203, as well as cross-reference a department rule regarding the Exposure Control Plan in §96.202 of this title.

Proposed amendments to §97.138 would restructure the rule section to better reflect the requirements, and limitations, of the Code of Criminal Procedure, Article 21.31, as well as improve clarity and readability. The four-year review of this rule section found language that could be read to exceed the authority given the department under the statute (e.g. language binding court action). The proposed rewrite would bring the rule more squarely in line with the statutory authority. Proposed changes to §97.138(a) would provide updated statutory cross-references, and would more exactly reflect the Article 21.31 discretion given the judge in the procedures described. These proposed changes would also use cross-references to fully capture the various specific criminal offenses at issue, would more thoroughly describe the applicable diseases, and would improve clarity and readability. Proposed changes to §97.138(b) would cover the actual testing, provide a reference to agency guidance documents as required by the statute (see <http://www.cdc.gov/std.treatment>), and provide a cross-reference regarding requirements applicable to hospitals in the statute. Proposed changes to §97.138(c) reflect statutory language regarding obligations of the person performing the test and of the local health authority. Section 97.138(d) through (g) are proposed to be deleted as part of the reorganization of this rule section, and to make sure that the rules do not exceed the authority granted to the department under Article 21.31 of the statute. Article 21.31, along with various Health and Safety Code provisions, contain adequate detail regarding how and when testing should occur (in conjunction with the department testing guidance that is proposed to be referenced in §97.138(b)-see weblink above).

Proposed amendments to §97.140(a) and (b)(1) update the program and agency names. Proposed amendments to §97.140(b)(2) would clarify the intent of the rule as to the duties performed and the medical test referenced in Health and Safety Code, §85.116(f). Proposed changes to §97.140(b)(3) would improve readability and would explicitly reflect the language at Health and Safety Code, §85.116(a). Proposed changes at §97.140(b)(3)(A) would match changes being proposed for §97.140(b)(2) and would also provide clarity and improved readability.

Proposed amendments to §97.141 would revise the section title to fully reflect the contents of the rule. Proposed changes at §97.141(a) would improve readability, update the agency name, and would update the statutory cross-reference. Proposed changes at §97.141 (b) would revise the text to better describe contents of the course, and would delete unnecessary and incomplete language. Proposed changes at §97.141(c)(1) would revise text to more accurately describe those for whom no fee is charged under Health and Safety Code, §85.087(c), and would outline

circumstances when the fee may be waived under agency policy. Proposed changes at §97.141(c)(2) would update the agency name. Proposed changes at §97.141(d) would update the method that is used for training notices.

Proposed amendments to §97.142 concern the HIV/AIDS Education of school age children and the Health and Safety Code, §§85.004-85.007 and §§163.001-163.002 do not require rules on this subject matter. The department complies with all these statutory provisions, such that the logical content for this rule is to direct interested persons to the place where they can obtain the agency documents in question.

Proposed amendments to §97.143(a) would update the agency name. Proposed changes at §97.143(b) would also update the legacy agency references and would delete a redundant statement. A new §97.143(c) is proposed to be added in order to address the requirements in Health and Safety Code, §85.012(e).

Proposed amendments to §97.144 would revise the title of the rule to better reflect the language in the Health and Safety Code, §85.141. Proposed changes to §97.144(a) and (b) would update legacy agency references.

Proposed amendments to §97.145(a) would revise text for better readability. Proposed changes to §97.145(b) would update the agency name.

Proposed amendments to §97.146 would revise text to improve readability and to more explicitly reflect to the full coverage of this rule subchapter.

FISCAL NOTE

Casey Blass, Director, Disease Intervention and Prevention Section, has determined that for each year of the first five-year period that the sections will be in effect, there will be no fiscal implications to state or local governments as a result of enforcing and administering the sections as proposed.

MICRO-BUSINESSES AND SMALL BUSINESSES IMPACT ANALYSIS

Mr. Blass has also determined that there will be no effect on small businesses or micro-businesses required to comply with the sections as proposed. This was determined by interpretation of the rules that small businesses and micro-businesses will not be required to alter their business practices in order to comply with the sections. There are no anticipated economic costs to persons who are required to comply with the sections as proposed. There is no anticipated negative impact on local employment.

PUBLIC BENEFIT

In addition, Mr. Blass has also determined that for each year of the first five years the sections are in effect, the public will benefit from adoption of the sections. The public benefit anticipated will be continued HIV and STD disease intervention, treatment and prevention in Texas, along

with the improved efficiency that comes from improving the clarity and readability of these rules.

REGULATORY ANALYSIS

The department has determined that this proposal is not a "major environmental rule" as defined by Government Code, §2001.0225. "Major environmental rule" is defined to mean a rule the specific intent of which is to protect the environment or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

TAKINGS IMPACT ASSESSMENT

The department has determined that the proposed amendments do not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, do not constitute a taking under Government Code, §2007.043.

PUBLIC COMMENT

Comments on the proposal may be submitted to Todd Logan, HIV/STD Comprehensive Services Branch, Health Promotion Unit, Department of State Health Services, 1100 West 49th Street, Austin, Texas 78756, (512) 533-3098 or by e-mail to todd.logan@dshs.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

LEGAL CERTIFICATION

The Department of State Health Services General Counsel, Lisa Hernandez, certifies that the proposed rules have been reviewed by legal counsel and found to be within the state agencies' authority to adopt.

STATUTORY AUTHORITY

The proposed amendments are authorized by Health and Safety Code, Chapters 81 and 85; by Code of Criminal Procedure, Article 21.31; and Government Code, §531.0055, and Health and Safety Code, §1001.075, which authorize the Executive Commissioner of the Health and Human Services Commission to adopt rules and policies necessary for the operation and provision of health and human services by the department and for the administration of Health and Safety Code, Chapter 1001. Review of the rules implements Government Code, §2001.039.

The proposed amendments affect Health and Safety Code, Chapters 81, 85 and 1001; and Government Code, Chapters 531 and 2001.

Legend: (Proposed Amendment(s))

Single Underline = Proposed new language

[Bold, Print, and Brackets] = Current language proposed for deletion

Regular Print = Current language

(No change.) = No changes are being considered for the designated subdivision

§97.135. Serological Testing during Pregnancy and Delivery.

(a) A pregnant woman shall be serologically tested for syphilis, HIV infection, and hepatitis B infection, once during gestation and again upon admittance for delivery.

(1) At the time of the first prenatal examination and visit, every physician or other person permitted by law to attend a pregnant woman during gestation shall:

(A) distribute to the woman printed materials regarding **[about]** syphilis, HIV, AIDS, and hepatitis B and their affects on pregnancy, **[which shall be]** provided by the **[Texas]** Department of State Health Services, and note on the woman's medical chart or health care record that the distribution of these materials were **[material was]** made;

(B) verbally notify the woman that an HIV test will be performed if the patient does not object and note on the medical records that verbal notification was given:

(i) advise the woman that the result of the HIV test taken under this action is confidential, not anonymous, and explain the difference between an anonymous and confidential HIV test; and

(ii) if the woman objects to the test for HIV infection, the physician or other person may not conduct that **[the]** test. The physician or other person shall refer the woman to an anonymous HIV testing site or instruct the woman about anonymous HIV testing methods.

(C) take or cause to be taken a sample of the blood of the woman and submit such sample to a laboratory certified by the federal Clinical Laboratory Improvement Amendments of 1988 (CLIA-88; 42 United States Code §263a), for:

(i) a standard serological test for syphilis; **[and]**

(ii) a standard serological test for HIV infection unless the woman objects to the test; and

(iii) a standard serological test for hepatitis B infection; and **[.]**

(D) persons listed in subsection (a)(1) of this section must keep records of each case for nine months, and must deliver a copy of the report to any subsequent person attending the pregnant woman.

(2) When a pregnant woman is admitted for delivery, the physician or other person permitted by law to attend a pregnant woman shall:

(A) distribute to the woman printed materials, **[material]** provided by the **[Texas]** Department of State Health Services, regarding **[which outlines]** information about syphilis, HIV, AIDS, and hepatitis B, and note on the woman's medical chart or health care record that the distribution of material was made;

(B) verbally notify the woman that an HIV test will be performed if she does not object and note on the medical records that verbal notification was given:

(i) advise the woman that the result of the HIV test taken under this section is confidential, not anonymous, and explain the difference between an anonymous and confidential HIV test; and

(ii) if the woman objects to the test for HIV infection, the physician or other person may not conduct that [the] test. The physician or other person shall refer the woman who objects to the test to an anonymous HIV testing site or instruct the woman about anonymous HIV testing methods.

(C) take or cause to be taken a sample of the blood of the woman and submit such sample to a laboratory certified by the federal Clinical Laboratory Improvement Amendments of 1988 (CLIA-88; 42 United States Code §263a), for:

(i) a standard serological test for syphilis; **[and]**

(ii) a standard or rapid serological test for HIV infection unless the woman objects to the test; and

(iii) a standard serological test for hepatitis B infection.

(3) (No change.)

(4) If a test for syphilis, HIV, or hepatitis B conducted under this section shows that the woman is or may be infected with syphilis, HIV, or hepatitis B, the physician or other person who submitted the sample for the test shall make test results available in a timely manner to allow appropriate medical intervention, and:

(A) provide or make available to the woman **[disease specific]** information relating to the specific disease and its treatment, presented such that the patient can understand its contents; or

(B) refer the woman to an entity that provides treatment for individuals infected with the diagnosed disease **[acquired immune deficiency syndrome]**.

(5) provide or make available to the HIV or AIDS-infected **[infected]** woman counseling which complies with Texas Health and Safety Code, §81.109. **[includes:]**

[(A) the meaning of the test result;]

[(B) the possible need for additional testing;]

[(C) measures to prevent the perinatal transmission of HIV;]

[(D) the availability of appropriate health services;]

[(E) the benefits of partner notification and the availability of partner notification programs;]

[(F) increased understanding of HIV infection;]

[(G) explanation of the potential need for confirmatory testing for HIV;]

[(H) explanation of behavior changes to decrease the potential of HIV transmission;]

[(I) encouragement to seek appropriate medical care; and]

[(J) encouragement to notify persons with whom there has been contact capable of transmitting HIV.]

(b) (No change.)

§97.136. Prophylaxis against Ophthalmia Neonatorum.

(a) A physician, nurse, midwife, or other person in attendance at childbirth shall apply, or cause to be applied, to the child's eyes one of the following:

(1) a 1.0% ophthalmic tetracycline solution (drops) or ointment in each eye within two hours after birth; **[or]**

(2) a 0.5% ophthalmic erythromycin solution (drops) or ointment in each eye within two hours after birth; or

(3) two drops of 1.0% silver nitrate solution in each eye within two hours after birth.

(b) (No change.)

(c) The [Texas] Department of State Health Services (department) may provide an approved prophylaxis without charge to health-care providers if the newborn's financially responsible adult is unable to pay. The health-care provider shall not charge for the prophylaxis that is received free of charge from the department.

(d) Midwives shall follow the additional requirements in Texas Health and Safety Code, §81.091.

§97.137. Exposure of Health-Care Personnel to Acquired Immune Deficiency Syndrome (AIDS), Human Immunodeficiency Virus (HIV) Infection.

(a) Health-care personnel are at risk of exposure to HIV or AIDS if the personnel are in contact with blood or other body fluids (amniotic fluid, pericardial fluid, peritoneal fluid, pleural fluid, synovial fluid, cerebrospinal fluid, semen, and vaginal secretions) or any body fluid visibly contaminated with blood through percutaneous inoculation or contact with an open wound, nonintact[,] skin or mucous membrane during the performance of normal job duties.

(b) (No change.)

(c) **[Emphasis must be placed on preventing the transmission of HIV or AIDS and not on testing for its presence.]** Health-care personnel should follow the most current exposure and risk guidance provided by the federal Centers for Disease Control and Prevention.

(d) Publications related to the prevention of HIV or AIDS are available upon request from: HIV/STD Comprehensive Services Branch [Bureau of HIV and STD Prevention], [Texas] Department of State Health Services, 1100 West 49th Street, Austin, Texas 78756-3199.

(e) Texas Health and Safety Code, §§85.201-85.203 contain requirements and information for health care personnel regarding infection control standards and related issues under this section. Also, see §96.202 of this title (relating to Exposure Control Plan).

§97.138. Guidelines for Testing Certain Indicted Persons for Certain Diseases.

(a) The Texas Code of Criminal Procedure, Article 21.31(a) describes medical tests that a judge may order a person to undergo when that person is indicted for, or waives indictment for, a listed offense as described in Texas Code of Criminal Procedure, Article 21.31(a). Under that statutory language tests may be ordered for any of the following, under the described conditions: a sexually transmitted disease; acquired immune deficiency syndrome (AIDS); human immunodeficiency virus (HIV) infection; hepatitis A or B; tuberculosis; and/or any other disease designated as a reportable disease under Texas Health and Safety Code, §81.048. The court may direct the person to undergo the procedure or test on its own motion or on a motion filed pursuant to a request by the victim of the alleged offense. Subsequent tests may also be ordered, as provided by law. Procedures and requirements are outlined at Texas Code of Criminal Procedure, Article 21.31(a). The Texas Code of Criminal Procedure, Article 21.31(b) describes court-ordered testing regarding a person charged with an offense under Texas Penal Code, §22.11. [(a) A court may order a person who is indicted for sexual assault or aggravated

sexual assault to submit to a medical procedure or test for presence of sexually transmitted diseases or acquired immune deficiency syndrome (AIDS), human immunodeficiency virus (HIV) infection, or other agent of AIDS, under authority of the Code of Criminal Procedure, Article 21.31, and Texas Health and Safety Code, §81.094. The physician, who is directed by the court to perform the medical procedure or test, shall follow the rules in this section that prescribe the criteria for testing and that respect the rights of the victim of the alleged offense and the rights of the accused person.]

(b) A hospital shall perform the medical procedure or test on a person if a court so orders, as required in Texas Health and Safety Code, §81.094. All aspects of testing, whether performed in a hospital or not, under this section must be conducted in accordance with CDC Sexually Transmitted Diseases Treatment Guidelines and with other applicable CDC and department testing guidelines and in accordance with state and federal confidentiality requirements (note that Texas Code of Criminal Procedure, Article 21.31 allows certain specific disclosures). [(b) In order to protect the privacy of the person being tested, the court, in consultation with the health authority, shall use or arrange the use of a pseudonym for the accused person on all requests and reports pertaining to the procedure or test. The pseudonym shall be distinct and known only to the physician, the health authority, the person being tested, and the court. The person performing the procedures or test shall make the results available directly to the local health authority.]

(c) The person performing the procedure or test under subsection (a) of this section shall timely submit the test results to the local health authority, following which that local health authority must timely notify the victim of the alleged offense, and the person charged with the offense, of the test result. [(c) For AIDS, gonorrhea, HIV infection, genital infections from Chlamydia trachomatis infection, syphilis, and hepatitis (acute or chronic viral type B), the procedures and tests should be those specified in the Texas Department of Health's (department) publication titled "Identification and Confirmation of Reportable Diseases" (pertaining to the reporting of diseases and health conditions) which is referenced in §97.3(a)(1) of this title (relating to What To Report). The physician shall request instructions relative to procedures and tests for other sexually transmitted diseases from the commissioner of health (commissioner) or his/her designee.]

[(d) The health authority shall meet with the victim of the alleged offense and disclose the results of the medical procedures or test; no other person shall be present during the notification unless permitted by the victim. The local health authority shall advise the victim of the medical implications of the test results whether or not the test results are positive or negative. The health authority shall instruct the victim to receive further medical intervention by the victim's personal physician. If the victim resides outside the State of Texas, the notification may be made by telephone.]

[(e) The health authority shall notify the accused person of the results of the procedure or test. If the result indicates the presence of a communicable disease, the health authority shall instruct the accused person as required by the Communicable Disease Prevention and Control Act, Texas Health and Safety Code, §81.083 or §81.109, and shall perform the appropriate duties and make the reports, as required by §97.3 of this title.]

[(f) After reporting the results of the procedure or test to the victim and to the accused person, the health authority shall file an affidavit with the court attesting that the order has been executed. Disclosure of the test results to any persons other than the victim and the accused person is prohibited under the Code of Criminal Procedure, Article 21.31.]

[(g) A health authority may delegate any duty imposed by these sections to a person supervised by the health authority. If a victim or a person tested under this section resides outside the jurisdiction of the local health authority, the notifications required by this section may be made by the local health authority in the jurisdiction where the person resides.]

§97.140. Counseling and Testing for State Employees Exposed to Human Immunodeficiency Virus (HIV) Infection on the Job.

(a) Purpose. The purpose of this section is to implement the provisions of the Communicable Disease Prevention and Control Act, Texas Health and Safety Code, §85.116, which requires the [Texas] Department of State Health Services (department) to adopt rules to implement the Act.

(b) Counseling and testing.

(1) The counseling for state employees exposed to HIV on the job should be performed in accordance with the most current guidelines developed by the department. Copies are available for review in the HIV/STD Comprehensive Services Branch [Bureau of HIV and STD Prevention], [Texas] Department of State Health Services, 1100 West 49th Street, Austin, Texas 78756-3199. Copies also are available on request.

(2) A state employee who may have been exposed to HIV while engaged in activities within the course and scope [performing duties] of state employment may not be required to be tested for HIV.

(3) HIV counseling and testing will be performed on the [a] state employee, when requested by that employee, at the expense of the state agency if:

(A) the employee documents to the agency's satisfaction that he or she may have been exposed to HIV while engaged in activities within the course and scope [performing duties] of state employment **[of the agency]**; and

(B) the exposure was a needlestick or other penetrating puncture of the skin with a used needle or other contaminated item; or either a splatter or aerosol into the eye, nose, or mouth or any significant contamination of an open wound or non-intact skin with blood or body fluids known to transmit HIV.

(c) (No change)

§97.141. Fee to Cover the Cost of Providing the Human Immunodeficiency Virus (HIV) and Hepatitis C Protocol-Based Counseling **[and Testing]** Course.

(a) Purpose. The purpose of this section is to implement the provisions of the Health and Safety Code, §85.087 and §94.004 **[\$93.003]**, requiring the **[Texas]** Department of State Health Services (department) to develop and offer a training course for persons providing HIV and/or hepatitis C counseling, and authorizes the department to charge a fee for the course.

(b) Content. The training course includes **[shall include]** information relating to **[HIV]** risk reduction and **[to]** the special needs of persons with positive **[HIV and/or hepatitis C]** test results for the diseases. General information on these diseases is sent to participants prior to the actual course. **[The department's Bureau of HIV and STD Prevention determines the content. Detailed information about the course may be obtained from the Bureau of HIV and STD Prevention, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3199.]**

(c) Fee.

(1) The course fee will be \$300 for each participant, except that no fee **[whose affiliation]** is required from employees of **[with]** an entity that receives state or federal funds for HIV or Hepatitis C counseling and testing through a current **[does not]** contract with the department. The HIV/STD Comprehensive Services Branch **[Bureau of HIV and STD Prevention]** may waive the fee, at its sole discretion, according to its written **[established]** internal procedures regarding compelling public health need.

(2) Fees shall be made payable to the **[Texas]** Department of State Health Services. All fees are non-refundable and must be received by the department prior to participation in the course. The accepted forms of payment are cashiers check or money order. No other form of payment will be accepted.

(d) Notice. Notice of the training courses will be announced through the on-line training calendar located at <http://www.dshs.state.tx.us/hivstd/training/schedule.shtm>**[, correspondence to contractors and other appropriate entities]**.

§97.142. Model Health Education Program/Resource Guide for HIV/AIDS Education of School-Age Children.

The documents referenced in Texas Health and Safety Code, §§85.004 – 85.007 and Sec.s 163.001-163.002 can be obtained from the Health Promotion Unit, Department of State Health Services, 1100 West 49th Street, Austin, Texas 78756-3199.

[(a) The Texas Department of Health has prepared and maintains the model education program/resource guide required by the Texas Health and Safety Code, §§85.004, 85.005, 85.007, and §§163.001-163.002. The guide provides resources for health educators to develop a model health education program suitable for school-age children

and is aimed at preventing the spread of the human immunodeficiency virus (HIV), which is the cause of acquired immunodeficiency syndrome (AIDS).]

[(b) The guide is available for review in the Bureau of HIV and STD Prevention, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3199. Copies are available upon request.]

§97.143. Model HIV/AIDS Workplace Guidelines.

(a) The [Texas] Department of State Health Services has prepared and maintains model workplace guidelines consistent with current public health information and with state and federal laws and regulations as required by the Texas Health and Safety Code, §85.012.

(b) Interested individuals or entities may review the guidelines or obtain copies by contacting the HIV/STD Comprehensive Services Branch [**Bureau of HIV and STD Prevention**], [Texas] Department of State Health Services, 1100 West 49th Street, Austin, Texas 78756-3199. [**Copies are available on request.**]

(c) Employers are encouraged to adopt HIV-related workplace guidelines that incorporate, at a minimum, the department guidelines referenced in this section.

§97.144. Model Policies for the Handling, Care, and Treatment of HIV/AIDS-infected Persons in the Custody of the Texas Department of Criminal Justice [**or Under the Supervision of Correctional Facilities**], Local Law Enforcement Agencies, Municipal and County Correctional Facilities [**Fire Departments, Emergency Medical Services Providers**], and District Probation Departments.

(a) The [Texas] Department of State Health Services has prepared the model policies concerning persons in custody required by the Texas Health and Safety Code, §85.141.

(b) The model policies are available for review in the HIV/STD Comprehensive Services Branch [**Bureau of HIV and STD Prevention**], [Texas] Department of State Health Services, 1100 West 49th Street, Austin, Texas 78756-3199. Copies are available upon request.

§97.145. Anonymous and Confidential HIV Testing.

(a) State-funded primary health, women's reproductive health, and sexually transmitted disease clinics shall provide voluntary[,] and affordable counseling and testing programs for HIV infection, or provide referrals to such programs. These entities shall offer both anonymous and confidential testing for HIV infection or provide referrals for anonymous and confidential testing.

(b) All HIV testing sites funded by the [Texas] Department of State Health Services shall offer confidential and anonymous HIV testing on site.

§97.146. Confidentiality of [**HIV/STD**] Test Results.

A test result under this subchapter is confidential. A person that possesses or has knowledge of a test result may not release or disclose the test result or allow the test result to become known except as provided by Health and Safety Code, §81.103 and other applicable state and federal law. Under Texas Health and Safety Code, §81.103(j), a [A] person commits an offense if, with criminal negligence and in violation of this section, the person releases or discloses a test result or other information or allows a test result or other information to become known. An offense under this section is a Class A misdemeanor.