

**DISEASE TESTING AMENDMENTS**

2019 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Andrew Stoddard**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill enacts provisions permitting a health care provider to order HIV testing under certain circumstances.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ permits a health care provider to order HIV testing of a patient under certain circumstances;
- ▶ addresses confidentiality of test results;
- ▶ provides immunity from civil liability for certain persons acting in accordance with the statute; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**78B-8-401**, as last amended by Laws of Utah 2017, Chapters 185 and 326

ENACTS:



28 [78B-8-402.5](#), Utah Code Annotated 1953

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30 *Be it enacted by the Legislature of the state of Utah:*

31 Section 1. Section **78B-8-401** is amended to read:

32 **78B-8-401. Definitions.**

33 For purposes of this part:

34 (1) "Blood or contaminated body fluids" includes blood, saliva, amniotic fluid,  
35 pericardial fluid, peritoneal fluid, pleural fluid, synovial fluid, cerebrospinal fluid, semen, and  
36 vaginal secretions, and any body fluid visibly contaminated with blood.

37 (2) "Disease" means Human Immunodeficiency Virus infection, acute or chronic  
38 Hepatitis B infection, Hepatitis C infection, and any other infectious disease specifically  
39 designated by the Labor Commission, in consultation with the Department of Health, for the  
40 purposes of this part.

41 (3) "Emergency services provider" means:

42 (a) an individual licensed under Section [26-8a-302](#), a peace officer, local fire  
43 department personnel, or personnel employed by the Department of Corrections or by a county  
44 jail, who provide prehospital emergency care for an emergency services provider either as an  
45 employee or as a volunteer; or

46 (b) an individual who provides for the care, control, support, or transport of a prisoner.

47 (4) "First aid volunteer" means a person who provides voluntary emergency assistance  
48 or first aid medical care to an injured person prior to the arrival of an emergency medical  
49 services provider or peace officer.

50 (5) "Health care facility" means the same as that term is defined in Section [78B-3-403](#).

51 ~~[(5)]~~ (6) "Health care provider" means the same as that term is defined in Section  
52 [78B-3-403](#).

53 (7) "Hospital" means the same as that term is defined in Section [78B-3-403](#).

54 (8) "Patient" means an individual who is under the care of a health care provider, under  
55 a contract, express or implied.

56 ~~[(6)]~~ (9) "Peace officer" means the same as that term is defined in Section [53-1-102](#).

57 ~~[(7)]~~ (10) "Prisoner" means the same as that term is defined in Section [76-5-101](#).

58 ~~[(8)]~~ (11) "Significant exposure" and "significantly exposed" mean:

59 (a) exposure of the body of one person to the blood or body fluids of another person  
60 by:

61 (i) percutaneous injury, including a needle stick, cut with a sharp object or instrument,  
62 or a wound resulting from a human bite, scratch, or similar force; or

63 (ii) contact with an open wound, mucous membrane, or nonintact skin because of a cut,  
64 abrasion, dermatitis, or other damage; or

65 (b) exposure that occurs by any other method of transmission defined by the Labor  
66 Commission, in consultation with the Department of Health, as a significant exposure.

67 Section 2. Section **78B-8-402.5** is enacted to read:

68 **78B-8-402.5. Health care provider ordered HIV testing of patient.**

69 (1) The health care provider of a patient to whom an emergency services provider, first  
70 aid volunteer, or health care provider is significantly exposed, may order that a blood specimen  
71 be obtained from the patient and tested for the presence of Human Immunodeficiency Virus  
72 infection, if:

73 (a) the exposed emergency services provider, first aid volunteer, or health care provider  
74 was significantly exposed to the patient while in the course of performing the individual's  
75 duties as an emergency services provider, first aid volunteer, or health care provider;

76 (b) the patient:

77 (i) is unconscious or otherwise unable to consent; and

78 (ii) has not refused to be tested;

79 (c) the health care provider of the patient has consulted with the health care provider of  
80 the emergency services provider, first aid volunteer, or health care provider who was exposed  
81 to the patient concerning:

82 (i) the extent of the exposure; and

83 (ii) the extent to which a delay in administering prophylaxis could result in a lack of  
84 effectiveness of the prophylaxis; and

85 (d) the health care provider of the patient and the health care provider of the exposed  
86 emergency services provider, first aid volunteer, or health care provider determine that a delay  
87 in administering prophylaxis could result in a lack of effectiveness of the prophylaxis.

88 (2) The patient's health care provider may order the patient's blood sample be obtained  
89 and tested at:

- 90           (a) the hospital or health care facility where the patient is located; or
- 91           (b) the laboratory that the hospital or health care facility described in Subsection (2)(a)
- 92 typically uses for diagnostic testing.
- 93           (3) The hospital, health care facility, or laboratory that tests the patient's blood sample:
- 94           (a) may share the test results with:
- 95           (i) the exposed emergency services provider, first aid volunteer, or health care
- 96 provider; or
- 97           (ii) the health care provider of the exposed emergency services provider, first aid
- 98 volunteer, or health care provider;
- 99           (b) shall share the test results with the patient; and
- 100           (c) shall advise all persons with whom the entity shares test results that the test results
- 101 are confidential.
- 102           (4) All persons privy to test results under this section shall maintain the test results as
- 103 confidential.
- 104           (5) The following are immune from civil liability when acting in good faith and in
- 105 accordance with this section:
- 106           (a) a health care provider;
- 107           (b) a hospital;
- 108           (c) a health care facility; and
- 109           (d) a laboratory described in Subsection (2)(b).