LRS 40§1171.3. HIV-related testing; consent; exceptions

            A. Except as provided, specifically authorized, or required by a state or federal law, in the event that HIV diagnostic testing is offered to a person as part of a routine medical screening in health care settings, substance abuse treatment facilities, mental health treatment facilities, and correctional settings, the patient shall be informed orally or in writing that HIV testing shall be performed unless the patient declines or "opts out" of the testing. Oral or written information shall include an explanation of HIV infection and the meanings of positive and negative test results, and the patient shall be offered an opportunity to ask questions. Consent for HIV testing shall be incorporated into the patient's general informed consent for medical care on the same basis as are other screening or diagnostic tests; a separate consent form for HIV testing shall not be necessary. If a patient declines testing, it shall be noted in the medical record.

            B. Community-based organizations that are funded by the office of public health to conduct HIV testing services will be required to follow all HIV testing protocols established by the HIV/AIDS Program of the office of public health.

            C. A patient requesting the performance of an HIV-related test shall be provided an opportunity to remain anonymous by the use of a coded system with no correlation or identification of the individual's identity to the specific test request or results. In these instances the identifying information otherwise required by the Louisiana State Sanitary Code shall not be required. A health care provider that is not able to provide HIV-related tests on an anonymous basis shall refer, at no extra charge to the individual seeking anonymity, such individual to a test site that provides anonymous testing. The provisions of this Subsection shall not apply to inpatients in hospitals.

            D. If an individual tests positive for HIV infection, the individual shall be referred to a health care provider for appropriate HIV-related primary medical care.

            E. The provisions of Subsections A through D of this Section shall not apply to the performance of an HIV-related test:

            (1) By a health care provider or health care facility in relation to the procuring, processing, distributing, or use of a human body or human part, including organs, tissues, eyes, bones, arteries, blood, semen, or other body fluids, for use in medical research or therapy, or for transplantation to individuals, as provided in R.S. 40:1113.2.

            (2) For purposes of accredited scientific or medical research. Any testing must be performed in such a manner that the identity of the test subject remains anonymous and may not be retrieved by any researcher unless specifically authorized.

            (3) On a deceased person, when the HIV-related test is conducted to determine the cause of death or for epidemiological purposes.

            (4) On any child taken into custody by the Department of Children and Family Services, where department officials have cause to believe that the child has been infected with HIV.

            (5) On any child when the child's attending physician reasonably believes such test to be necessary in order to properly diagnose or treat the child's medical condition and documents such reason in the child's medical record, including all newborns whose mothers present for delivery without a diagnostic HIV test on record.

            (6) On any person who has been arrested, indicted, or convicted for the crimes of aggravated or first degree rape, forcible or second degree rape, simple or third degree rape, or crime against nature as defined by R.S. 14:89(A)(2) when required by a court to undergo an HIV-related test.

            F. Repealed by Acts 2007, No. 153, §2.

            Acts 1991, No. 1054, §1; Acts 2007, No. 153, §§1, 2; Acts 2014, No. 602, §6, eff. June 12, 2014; Redesignated from R.S. 40:1300.13 by HCR 84 of 2015 R.S.; Acts 2015, No. 184, §4.