

h. The liability of a foster parent due solely to the foster parent's failure to obtain automobile or homeowner's insurance.

i. A loss or damage arising out of conduct which is in violation of administrative rules.

5. Except as provided in this section, the fund shall pay, on behalf of a guardian or conservator, the reasonable and necessary legal costs incurred in defending against a suit filed by a ward or the ward's representative and the damages awarded as a result of the suit, so long as it is determined that the guardian or conservator acted in good faith in the performance of their duties. A payment shall not be made if there is evidence of intentional misconduct or a knowing violation of the law by the guardian or conservator, including, but not limited to, failure to carry out the responsibilities required under sections 633.633 through 633.635 and 633.641 through 633.651.

6. The fund is not liable for the first one hundred fifty dollars of any claim based on a single occurrence. Claims may not be aggregated or accumulated to avoid payment of this deductible. The fund is not liable for damages in excess of three hundred thousand dollars for a single foster home for all claims arising out of one or more occurrences during a calendar year.

7. Procedures for claims against the fund:

a. A claim against the fund shall be filed in accordance with the claims procedures and on forms prescribed by the department of human services.

b. A claim shall be submitted to the fund within the applicable period of limitations for the appropriate civil action underlying the claim. If a claim is not submitted to the fund within the applicable time, the claim shall be rejected.

c. The department shall issue a decision on a claim within one hundred eighty days of its presentation.

d. A person shall not bring a civil action against a foster parent for which the fund may be liable unless that person has first filed a claim against the fund and the claim has been rejected, or the claim has been filed, approved, and paid in part, and damages in excess of the payment are claimed.

8. All processing of decisions and reports, payment of claims, and other administrative actions relating to the fund shall be conducted by the department of human services.

9. The department of human services shall adopt rules, pursuant to chapter 17A, to carry out the provisions of this section.

Approved May 12, 1988

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## CHAPTER 1224

### COMPREHENSIVE AIDS PREVENTION AND INTERVENTION PLAN

*S.F. 2157*

**AN ACT** relating to a comprehensive acquired immune deficiency syndrome (AIDS) prevention and intervention plan.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. **ACQUIRED IMMUNE DEFICIENCY SYNDROME-RELATED CONDITIONS — FINDINGS.**

The general assembly finds and declares that acquired immune deficiency syndrome (AIDS)-related conditions present a significant challenge to the nation and to this state. The nation and this state are presented with the challenge of compensating society for the loss of many

young, productive citizens. The state is also challenged with protecting the public health while maintaining individual liberties.

Iowans will experience the impact of AIDS-related conditions for some time and expect the establishment of a proactive, effective policy based upon reason and medical evidence, not a reactive, ineffective policy based upon fear and prejudice.

An effective, comprehensive policy includes many elements. The general assembly finds and declares that the state comprehensive plan for the prevention of and intervention in AIDS-related conditions includes the following elements: public and professional health education; testing and counseling, including contact counseling; and the increased availability of public information. Other elements, including protection of individual rights, confidentiality, and provision of care, are parts of a comprehensive approach to prevention of and intervention in AIDS-related conditions.

**Sec. 2. NEW SECTION. 135H.1 LEAD AGENCY.**

The Iowa department of public health is designated as the lead agency in the coordination and implementation of the state comprehensive acquired immune deficiency syndrome (AIDS)-related conditions prevention and intervention plan. As used in this chapter, "acquired immune deficiency syndrome-related conditions" or "AIDS-related conditions" means human immunodeficiency virus, acquired immune deficiency syndrome, acquired immune deficiency syndrome-related complex, or any other condition resulting from the human immunodeficiency virus infection.

**Sec. 3. NEW SECTION. 135H.2 COMPREHENSIVE ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS)-RELATED CONDITIONS PREVENTION AND INTERVENTION PLAN.**

1. The Iowa department of public health shall implement the various components of the comprehensive AIDS prevention and intervention plan in accordance with the following prioritized schedule:

- a. Public and professional health education.
- b. Testing and counseling.
- c. Contact counseling.
- d. Public information.

2. All federal and state moneys appropriated to the Iowa department of public health for AIDS-related activities shall be allocated in accordance with the prioritized schedule, and grants shall be awarded to the maximum extent feasible to community-based organizations.

**Sec. 4. NEW SECTION. 135H.3 PUBLIC AND PROFESSIONAL EDUCATION.**

1. The Iowa department of public health shall, in cooperation with the department of education and other agencies, organizations, coalitions, and local health departments, develop and implement a program of public and professional AIDS-related education.

2. The program of public and professional AIDS-related education shall include the following components:

- a. Pertinent AIDS-related conditions information directed toward individuals who are at risk for an AIDS-related condition.
- b. Pertinent AIDS-related conditions information directed toward all providers of health care.
- c. Pertinent AIDS-related conditions information directed toward the general public.

**Sec. 5. NEW SECTION. 135H.4 TESTING AND COUNSELING.**

Testing and counseling shall be offered to the following:

1. All persons seeking treatment for a sexually transmitted disease.
2. All persons seeking treatment for intravenous drug abuse or having a history of intravenous drug abuse.

3. All persons who consider themselves at risk for the human immunodeficiency virus infection.

4. Male and female prostitutes.

Counseling and testing shall be provided at alternative testing and counseling sites and at sexually transmitted disease clinics. The Iowa department of public health shall assist local boards of health in the development of programs which provide free anonymous testing to the public.

Sec. 6. NEW SECTION. 135H.5 PUBLIC INFORMATION CAMPAIGNS.

The Iowa department of public health shall develop, in cooperation with other agencies, organizations, coalitions, and local health departments, through incorporation of the efforts of print, wire, and air media, public information campaigns to increase the distribution of information to the public. Public information campaign activities shall include the following:

1. The conducting of informational campaigns designed to increase the understanding of AIDS-related conditions in all segments of the population to alleviate unfounded fear and anxiety.

2. The stimulation of individual and community actions to develop AIDS public service activities.

3. The encouragement of the use of AIDS public service announcements.

Sec. 7. NEW SECTION. 135H.6 PARTNER NOTIFICATION PROGRAM — HUMAN IMMUNODEFICIENCY VIRUS (HIV).

1. The Iowa department of public health shall implement, as a part of the comprehensive AIDS prevention and intervention plan, a partner notification program for persons known to have tested positive for the human immunodeficiency virus infection, beginning September 1, 1988.

2. The Iowa department of public health shall initiate the program at alternative testing and counseling sites and at sexually transmitted disease clinics.

3. In administering the program, the Iowa department of public health shall provide for the following:

a. A person who tests positive for the human immunodeficiency virus infection shall receive posttest counseling, during which time the person shall be encouraged on a strictly confidential basis to refer for counseling and human immunodeficiency virus testing any person with whom the person has had sexual relations or has shared intravenous equipment.

b. If, following counseling, a person who tests positive for the human immunodeficiency virus infection chooses to disclose the identity of any sexual partners or persons with whom the person has shared intravenous equipment, the physician or health practitioner attending the person shall obtain written consent which acknowledges that the person is making the disclosure voluntarily.

c. The physician or health practitioner attending the person shall forward any written consent forms to the Iowa department of public health.

4. In making contact the Iowa department of public health shall not disclose the identity of the person who provided the names of the persons to be contacted and shall protect the confidentiality of persons contacted.

5. The Iowa department of public health may delegate its partner notification duties under this section to local health authorities unless the local authority refuses or neglects to conduct the contact tracing program in a manner deemed to be effective by the Iowa department of public health.

6. A person who violates a confidentiality requirement of subsection 1, 2, 3, 4, or 5 is guilty of a class "D" felony.

Sec. 8. NEW SECTION. 135H.7 ACCREDITATION OF HUMAN IMMUNODEFICIENCY VIRUS TESTING LABORATORIES.

1. For the purpose of this section unless the context otherwise requires:

a. "Clinical laboratory" means a facility for the microbiological, serological, chemical, hematological, radiobioassay, cytological, immunohematological, pathological or other examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or assessment of a medical condition.

b. "Blood bank" means a facility for the collection, processing, or storage of human blood or blood derivatives, or from which or by means of which human blood or blood derivatives are distributed or otherwise made available.

c. "Laboratory" includes a clinical laboratory and a blood bank.

2. Beginning July 1, 1988, human immunodeficiency virus screening and confirmatory testing shall be performed only by laboratories certified on an annual basis pursuant to this section.

3. The director of public health shall adopt rules establishing standards for the accreditation of laboratories to perform human immunodeficiency virus screening and confirmatory testing. The rules shall include but are not limited to standards relating to proficiency testing, record maintenance, adequate staffing, and confirmatory testing. The rules shall provide for acceptance of accreditation programs which are in conformance with the standards established by the rules.

4. The Iowa department of public health shall provide application forms for certification of a laboratory. The director shall prescribe by rule the information to be included on the application form.

5. A laboratory shall not be certified unless the laboratory meets all standards established by the Iowa department of public health.

6. The Iowa department of public health may conduct periodic inspections of laboratory facilities, methods, procedures, materials, staff, and equipment for compliance with the standards established pursuant to this section. The department may delegate this authority to the state hygienic laboratory.

7. A laboratory's certification may be revoked, suspended, or limited, if at any time the laboratory is found to be in violation of any of the standards adopted by the department pursuant to this section.

Sec. 9. NEW SECTION. 135H.8 ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS)-RELATED CONDITIONS — SCREENING, TESTING, AND REPORTING.

1. Prior to withdrawing blood for the purpose of performing a human immunodeficiency virus-related test, the physician or other practitioner shall inform the subject of the test that the test is voluntary and may be performed anonymously if requested. Within seven days after the testing of a person with a test result indicating human immunodeficiency virus infection which has been confirmed as positive according to prevailing medical technology, the physician or other practitioner at whose request the test was performed shall make a report to the Iowa department of public health on a form provided by the department. Prior to making the required report, the physician or other practitioner shall provide written information regarding the partner notification program and shall inquire if the person wishes to initiate participation in the program by agreeing to have identifying information reported to the department on a confidential basis.

2. Within seven days of diagnosing a person as having an AIDS-related condition, the diagnosing physician shall make a report to the Iowa department of public health on a form provided by the department.

3. Within seven days of the death of a person resulting from an AIDS-related condition, the attending physician shall make a report to the Iowa department of public health on a form provided by the department.

4. Within seven days of the testing of a person with a test result indicating human immunodeficiency virus infection which has been confirmed as positive according to prevailing medical technology, the director of a blood plasma center or blood bank shall make a report to the Iowa department of public health on a form provided by the department.

5. Within seven days of the testing of a person with a test result indicating human immunodeficiency virus infection which has been confirmed as positive according to prevailing medical technology, the director of a clinical laboratory shall make a report to the Iowa department of public health stating the person's name or a confidential form of identification known only to the physician or other health practitioner requesting the test and the name and address of the physician or other health care practitioner requesting the test.

6. The forms provided by the department pursuant to subsections 2 and 3 shall contain the name, date of birth, sex, and address of the subject of the report and the name and address of the physician or other person making the report. The forms provided by the department pursuant to subsections 1, 4, and 5 may include the subject's age, race, marital status, or other information deemed necessary by the department for epidemiological purposes, but shall not include the subject's name or address without the written authorization of the subject.

The subject shall be provided with information regarding the confidentiality measures followed by the department and may request that the department maintain the subject's confidential file for the purposes of partner notification, or for the inclusion of the subject in research or treatment programs.

Sec. 10. NEW SECTION. 135H.9 DUTIES OF PUBLIC HEALTH OFFICIALS.

1. State and local health officers shall investigate sources of human immunodeficiency virus infection and shall use every appropriate means to prevent the spread of the disease.

2. The Iowa department of public health shall do all of the following:

a. Provide consultation to agencies and organizations regarding appropriate policies for testing, education, confidentiality, and infection control.

b. Conduct health information programs for the public relating to human immunodeficiency virus infection, including information about how the infection is transmitted and can be prevented. The department shall prepare, for free distribution, printed information relating to human immunodeficiency virus infection and prevention.

c. Provide educational programs concerning human immunodeficiency virus infection in the workplace.

d. Develop and implement human immunodeficiency virus education risk-reduction programs for specific populations at high risk for infection.

e. In cooperation with the department of education, develop and update a medically correct acquired immune deficiency syndrome prevention curriculum for use at the discretion of secondary and middle schools.

School districts shall provide every elementary and secondary school student, with parental consent, education concerning human immunodeficiency virus infection and acquired immune deficiency syndrome and its prevention.

Sec. 11. NEW SECTION. 135H.10 CONFIDENTIAL REPORTS AND IMMUNITIES.

1. Reports, information, and records submitted and maintained pursuant to this chapter are strictly confidential medical information. The information shall not be released, shared with an agency or institution, or made public upon subpoena, search warrant, discovery proceedings, or by any other means except under any of the following circumstances:

a. Release may be made of medical or epidemiological information for statistical purposes in a manner such that no individual person can be identified.

b. Release may be made of medical or epidemiological information to the extent necessary to enforce the provisions of this chapter and related rules concerning the treatment, control, and investigation of human immunodeficiency virus infection by public health officials.

c. Release may be made of medical or epidemiological information to medical personnel in a medical emergency to the extent necessary to protect the health or life of the named party.

2. An officer or employee of the state or local department of health or a person making a report pursuant to this chapter shall not be examined in any judicial, executive, legislative, or other proceeding as to the existence or content of an individual report made pursuant to this chapter.

3. Reports, information, and records which contain the identity of persons except reports, information, and records necessary to honor the requests made pursuant to section 135H.8 shall be destroyed immediately after the extraction of statistical data and completion of contact identification or in no event longer than six months from the date the report, information, or record was received.

4. A person making a report in good faith pursuant to this chapter is immune from any liability, civil or criminal, which might otherwise be incurred or imposed as a result of the report.

5. For purposes of this section, "good faith" means objectively reasonable, and not in violation of clearly established statutory rights or other rights of a person which a reasonable person would know or should have known.

Sec. 12. Section 135.11, Code Supplement 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 22. Adopt rules which require personnel of a licensed hospice, of a homemaker-home health aide provider agency which receives state homemaker-home health aide funds, or of an agency which provides respite care services and receives funds to complete a minimum of two hours of training concerning acquired immune deficiency syndrome-related conditions through a program approved by the department. The rules shall require that new employees complete the training within six months of initial employment and existing employees complete the training on or before January 1, 1989.

NEW SUBSECTION. 23. Adopt rules which require all emergency medical services personnel, firefighters, and law enforcement personnel to complete a minimum of two hours of training concerning acquired immune deficiency syndrome-related conditions and the prevention of human immunodeficiency virus infection.

#### Sec. 13. WAIVER PROCESS INITIATION.

The department of human services shall initiate the application process in order to obtain a waiver from the health care financing administration of the United States department of health and human services for the provision of alternative services to persons with acquired immune deficiency syndrome or a related condition.

Sec. 14. Sections 139.41 and 139.42, Code Supplement 1987, are repealed.

Approved May 12, 1988