

STATE OF DELAWARE



EXECUTIVE DEPARTMENT DOVER

EXECUTIVE ORDER
NUMBER EIGHTY THREE

TO: HEADS OF ALL STATE DEPARTMENTS AND AGENCIES

RE: WORKPLACE AIDS POLICY

WHEREAS, the spread of Acquired Immune Deficiency Syndrome (AIDS) is a matter of great public concern; and

WHEREAS, the State desires to protect the rights and health of its employees, clients and the general public and to control the spread of AIDS to the greatest extent possible; and

WHEREAS, persons with AIDS or the Human Immunodeficiency Virus (HIV) infection are entitled to the same protections, job accommodations and access to the workplace as any other handicapped person; and

WHEREAS, AIDS is a deadly disease which has the potential to affect every segment of the State's population; and

WHEREAS, AIDS is transmitted by sexual contact, by contact with infected blood or blood components or by an infected mother to her unborn or newly born child; and

WHEREAS, I believe it is necessary and appropriate to establish a clear policy to prohibit discrimination against persons suffering from AIDS, HIV infection, or any condition related thereto and to protect the health and safety of State employees, recipients of State services and the general public.

NOW, THEREFORE, I, MICHAEL N. CASTLE, by virtue of the authority vested in me as Governor of the State of Delaware, do hereby declare and order that:

1. Definitions -- The following words and phrases as used herein shall be defined as follows:
 - A. AIDS: The disease complex known as Acquired Immune Deficiency Syndrome, which occurs when a part of the human immune system is destroyed by exposure to the Human Immunodeficiency Virus (HIV).
 - B. Condition related thereto: Any perception that a person is suffering from the medical condition AIDS, whether real or imaginary.
 - C. Reasonable and demonstrable risk: The likelihood of the transmission of HIV through contact with blood, blood components or bodily fluids containing blood on a regular basis.
 - D. Employer: Any cabinet department, division or agency of the Executive Branch of the State of Delaware.
 - E. State Employee: Any merit or non-merit employee, full-time or part-time, employed by the Employer.
2. No present or prospective employee shall be discriminated against with respect to the opportunity to compete for hire, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment as a result of the fact that the employee has AIDS, a condition related thereto, or is thought to be potentially affected with HIV.
3. Any present or prospective employee who has AIDS or a condition related thereto is entitled to request job accommodations and access to the workplace as appropriate to continue or gain employment with the State provided that the condition does not create an unreasonable and demonstrable risk to the safety or health of the infected person, other employees, the employer's clients or the general public.
4. No present or prospective employee shall be required to be tested for the purpose of detecting infection by the HIV virus unless the absence of HIV infection is a bona fide occupational qualification for the job in question.

5. All State agency employees who come into contact with blood, blood components or bodily fluids containing blood on a regular basis, shall provide training, and develop safety procedures to be used by their employees in dealing with such bodily fluids. Such agencies shall also provide all necessary safety equipment to minimize the possibility of infection. Failure to adhere to established procedures shall subject the employee to disciplinary action in accordance with applicable Merit Rules or the provisions of any union contract.
6. An employee may not refuse to work with or provide services to a co-worker or a client who has AIDS or a condition related thereto. An employee who refuses to work with or provide services to co-workers or clients shall be subject to disciplinary actions in accordance with the applicable Merit Rules or provisions of any union contract. All such infractions shall be dealt with on an individual basis to ensure adherence to merit principles and equitable treatment.
7. The Division of Public Health shall continue to make available to all State employees free HIV testing and counseling upon request.
8. The State shall maintain the confidentiality of any information received by it regarding whether an employee is infected with the AIDS virus unless the employee explicitly gives written approval to release such information. Approval must specify to whom the information may be disseminated.
9. No present or prospective employee is obligated to reveal positive test results to his/her employer unless the employer can demonstrate a reasonable and demonstrable risk to clients, co-workers or the general public, or as otherwise provided in Title 16, Chapter 12 of the Delaware Code.
10. If an employee feels he/she has been exposed to the HIV virus in the workplace through a patient or client, the patient/client should be informed of the incident and requested to consent to serologic testing for evidence of HIV infection. No patient/client may be forced to submit to testing for HIV, except as provided under Title 16, Chapter 12 of the Delaware Code.
11. An employee having knowledge that a co-worker, patient or client has AIDS, a condition related thereto, or is potentially infected with HIV shall consider such knowledge confidential and treat such knowledge

accordingly. Violation of confidentiality shall be subject to disciplinary action in accordance with the applicable Merit Rules or the provisions of any union contract, or as stated in Title 16, Chapter 12 of the Delaware Code.

12. The State shall allow employees who are infected with the AIDS virus the same leave allowances and considerations as are available to an employee with any other type of physical or mental disability.
13. Educational information regarding AIDS shall be made available to all State employees. Specific questions concerning AIDS should be directed to the Division of Public Health, AIDS Program Office.
14. The attached document entitled "Exposures to Blood and Concerns About AIDS: Procedures for State Employees" is hereby approved and made part of this Executive Order by reference. This document further delineates the procedures State agencies and employees should follow when a potential exposure to HIV occurs.
15. Each cabinet secretary and agency head shall cause this Executive Order to be disseminated within their department or agency and insure that all managers and supervisors are fully knowledgeable of its provisions and requirements.
16. The Director of Personnel is hereby instructed to cause any relevant Merit System rules to be amended to be made consistent with this Executive Order and to negotiate any contractual provisions necessary to carry out its intent.

APPROVED this 9th day of
September, 1990.

Michael N. Castle
Governor

ATTEST:

M. J. P.
Secretary of State



EXPOSURES TO BLOOD AND CONCERNS ABOUT AIDS:
PROCEDURES FOR STATE EMPLOYEES

PURPOSE:

Employees who routinely handle blood and bodily fluids containing blood are at risk for occupational exposure to many blood borne infections. Careful technique and strict adherence to appropriate infection control and safety practices are the most important means of preventing occupational exposures.

Employees who routinely handle blood and bodily fluids containing blood are encouraged to receive the hepatitis B vaccine. (Call the Bureau of Disease Prevention for more information at 739-4745.)

The risk of being infected by Human Immunodeficiency Virus (HIV), the virus that causes AIDS, is less than one in 100 when injured by a needle previously used on an AIDS patient.

This document outlines procedures which should be used when an employee believes (s)he has been occupationally exposed to HIV.

DEFINITION OF EXPOSURE TO HIV:

Although the risks are low, the best medical evidence holds that exposure to HIV may occur in only the following circumstances:

1. A needle stick or other penetrating injury with an item contaminated with blood, plasma, pleural fluid, peritoneal fluid, or any drainage, secretion, or excretion that contain blood or plasma.
2. Mucous membrane (eyes, nose, mouth) or prolonged skin contact with blood, plasma, pleural fluid, peritoneal fluid, or any other drainage, secretions, or excretions that contain blood or plasma.

RECOMMENDED PROCEDURES:

Usually, it will not be known if a patient or client is infected with HIV. Therefore, if an exposure as described above occurs, it is most prudent to assume the patient or client is infected, and observe the following procedures.

1. Apply first aid
 - allow wound to bleed
 - wash the injury site thoroughly with soap and water, or rinse the exposed mucous membrane thoroughly with water.
2. Immediately notify the employee's supervisor of the exposure. Document the date and circumstances. Note the client's name and how (s)he can be located. Also identify any risk factors, such as if the client is known to be a gay or bisexual man, intravenous drug user, has AIDS or an HIV infection, or is an infant or sexual partner of the aforementioned.

3. If the exposure is as described above, the client should be informed of the incident and assessed on the basis of social and medical history to determine the likelihood of HIV infection. If the assessment suggests that infection may exist, the client should be requested to consent to HIV testing (requirements for informed consent are governed by Chapter 12, Title 16 of the Delaware Code).
4. If the client is unknown, cannot be located, has AIDS or HIV infection, declines testing, or has a positive test, the employee should be offered the opportunity to be tested for evidence of HIV infection. such testing should occur as soon as possible after the exposure, and if negative, after 6 weeks and then at 3, 6 and 12 months following the exposure.
5. The employee should be offered appropriate counseling to handle the emotional consequences of the exposure and to receive advice regarding the avoidance of pregnancy, donation of blood, and use of safe sexual practices until after the HIV antibody test is negative at 3 months following the exposure.
6. If the employee refuses counseling or testing, the refusal should be clearly documented.
7. Results of laboratory tests and the nature of counseling should be a confidential matter between the employee and provider of care and not open to inspection by any other person unless the employee so wishes.
8. Assistance with steps 3, 4, and 5 can be obtained from the Bureau of Disease Prevention, Division of Public Health (739-4745).