

DEPARTMENT OF PUBLIC HEALTH
**Guidance for Medical Professionals Conducting Pre-Placement Medical Examinations Regarding
the Reporting of Infectious, Communicable, or Contagious diseases**

Current medical knowledge states that HIV and AIDS are not infectious, communicable, or contagious diseases in most settings. Consequently, medical professionals should not report diseases, such as HIV or AIDS, as an infectious, communicable or contagious disease when reporting the results of pre-placement medical examinations for most occupations.

Often, medical professionals conducting pre-placement, medical examinations for healthcare and other workers use medical screening forms that have an “infectious, communicable, or contagious disease” section. In some cases, the professional may be inclined to report HIV or AIDS in such section; however, given the current medical knowledge regarding HIV and AIDS, in many cases neither should be reported in such section.

Since HIV cannot be transmitted by working with or being around someone with HIV or from sweat, spit, tears, clothes, drinking fountains, phones, toilet seats, sharing a meal, insect bites or a closed-mouth kiss it should not be considered infectious, communicable or contagious for many occupations.¹

In fact, the U.S. Department of Justice has mandated that for “occupational training and licensing requirements, the terms “infectious, communicable, or contagious disease” must exclude diseases, such as HIV, not transmitted through casual contact or through the usual practice of the occupation for which a license is required.”²

Similarly, the Centers for Disease Control and Prevention has stated that there is “no evidence that the HIV virus is transmissible via food. Therefore, a food employee positive for the HIV virus is not of concern unless [he or she is also] suffering” from another illness that is transmitted through the food supply.³

In conclusion, a medical professional conducting a pre-placement employment test should consider the occupation for which the testing is being conducted to determine whether a disease, such as HIV or AIDS, should be reported as “infectious, communicable or contagious” on the report. The medical professional should consider whether the occupation at issue normally involves engaging in activities in which HIV or AIDS could be transmitted to determine whether HIV or AIDS is an “infectious, communicable or contagious disease” for reporting requirements for that medical examination. If the occupation does not involve engaging in such activities, HIV or AIDS should not be reported as an “infectious, communicable or contagious disease.”

Disclaimer: This guidance is educational in nature and provided as a public service. It is neither a comprehensive statement of the law nor intended to be legal advice and, therefore, should not be relied upon as such. If you have specific legal questions, please consult an attorney.

¹ Department of Health and Human Services, Centers for Disease Control and Prevention, HIV and AIDS: Are you at Risk, pp. 3 – 4 (rev. July 2007) available at <http://www.cdc.gov/hiv/resources/brochures/pdf/at-risk.pdf>.

² U.S. Dept. of Justice, Civil Rights Division, Questions and Answers: The Americans with Disabilities Act and the Rights of Persons with HIV/AIDS to Obtain Occupational Training and State Licensing, http://www.ada.gov/qahiv aids_license.pdf (last visited June 27, 2012)(emphasis added).

³ FDA Food Code 2009: Annex 3 – Public Health Reasons\Administrative Guidelines Chapter 2, Management and Personnel § 2 – 201.11 Responsibility of the Person in Charge, Food Employees, and Conditional Employees, <http://www.fda.gov/Food/FoodSafety/RetailFoodProtection/FoodCode/FoodCode2009/ucm189171.htm>; see also Department of Health and Human Services, Centers for Disease Control and Prevention, Diseases Transmitted Through the Food Supply, 73 Fed. Reg. 67871(Nov. 17, 2008).