

APA-1  
11/96

**TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION**

Control 420 Alabama Department of Public Health

Rule Number 420-4-1-.06

Rule Title HIV Testing Procedures

       New XXXX Amend        Repeal        Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare or safety? Yes

Is there a reasonable relationship between the state's police power and the protection of the public health, safety or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? n/a

Are all facts of the rulemaking process designed solely for the purpose of and so they have as their primary effect, the protection of the public? Yes

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of §41-22-23, Code of Alabama, 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama, 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of Certifying Officer Fabrice Brie Date 9/19/2014

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**FORM APA2**  
**11/96**

**STATE BOARD OF HEALTH**  
**NOTICE OF INTENDED ACTION**

AGENCY NAME: Alabama Department of Public Health

RULE NUMBER AND TITLE: 420-4-1-.06, HIV Testing Procedures

INTENDED ACTION: Amend Rule 420-4-1-.06.

SUBSTANCE OF PROPOSED ACTION: To amend HIV Testing Procedures included in the Notifiable Diseases Chapter 420-4-1 of the Alabama Administrative Code.

TIME, PLACE, AND MANNER OF PRESENTING VIEWS: A public hearing will be held at 9:00 a.m. October 28, 2014, at the Alabama Department of Public Health, RSA Tower, Suite 1540, 201 Monroe Street, Montgomery, AL 36104.

FINAL DATE FOR COMMENTS AND COMPLETION OF NOTICE: Written or oral comments will be received until the close of the record at 5:00 p.m. on November 4, 2014. All comments and requests for copies of the proposed amendments should be addressed to the contact person listed below.

CONTACT PERSON AT AGENCY: Sherri Davidson, Analysis and Reporting Branch Manager, Epidemiology Division of the Bureau of Communicable Disease, Department of Public Health, 201 Monroe Street, Suite 1460, Montgomery, Alabama 36104. Telephone number (334) 206-2050.

  
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Patricia E. Ivie, Agency Secretary

HIV Testing Procedures.

~~(1) Practitioners shall use only tests for HIV licensed by the US Food and Drug Administration (FDA).~~

~~(2) Individuals who test positive with a rapid, or point-of-care, test shall be informed that their result is considered a preliminary positive, shall be given a confirmatory laboratory-based test, and in the meanwhile be advised to take precautions to avoid transmitting the virus.~~

~~(3) Individuals, their personal physician, or the physician's designee shall be notified of the result of a confirmed, positive HIV test after:~~

~~(a) laboratory-based antibody screening tests have been found to be repeatedly reactive and a confirmation test such as the Western Blot or the immunofluorescence test has been found to be positive; or~~

~~(b) a confirmation test such as the Western Blot or the immunofluorescence test has been found to be positive in follow-up of a positive rapid, point-of-care test; or~~

~~(c) a positive result or report of a detectable quantity on any of the following HIV virologic (nonantibody) tests has been found:~~

~~(i) HIV nucleic acid (DNA or RNA) detection (e.g., DNA polymerase chain reaction [PCR] or plasma HIV-1 RNA); or~~

~~(ii) HIV p24 antigen test, including neutralization assay; or~~

~~(iii) HIV isolation (viral culture).~~

~~(4) Except in emergency circumstances when, in the best medical judgment of the attending physician, there is reasonable cause to believe that there is a real, present and immediate danger of communication of HIV to attending medical personnel, testing for HIV infection either by antibody tests or other methods shall be performed only with the consent of the individual being tested if said test results can be linked to a specific individual or as ordered by the State Health Officer as provided by Code of Ala., 1975, §22-11A-51 and -52. Consent shall specifically mention HIV, be signed, and may be included in a general consent statement. Nothing in this rule shall preclude the use of anonymous blind serologic testing to establish seroprevalence of HIV infection in targeted groups, so long as test results cannot be linked to a~~

~~specific individual, nor preclude the routine testing of blood donors, organ donors, semen donors, nor individuals sentenced to confinement or imprisonment in city, county or state correctional facilities, nor preclude the testing of individuals where there is a reasonable cause to believe the person has HIV infection or has been exposed to HIV infection as provided in Code of Ala. 1975, §22-11A-18.~~

(5) ————— No person shall be tested for HIV infection by antibody determination, or by other means, unless said person or their personal physician are informed of the results of said test or said results are made available to said person. A person so notified shall be provided information on the meaning of said test results, the methods of HIV transmission, on ways to avoid becoming infected, or on ways to avoid infecting others. However, nothing in this paragraph shall apply to any business organization providing life, health or disability insurance.

**Author:** Donald E. Williamson, M.D., P. Brian Hale, J.D.

**Statutory Authority:** Code of Ala. 1975, §§22-11A-1, et seq.

**History:** Filed March 24, 1988. **Amended:** Filed October 19, 1990.

**Emergency repeal and adoption of new rule** filed

September 23, 1987. **Repealed:** Filed November 19, 1987. **Amended:**

Filed December 17, 2008; effective January 21, 2009.

**Ed. Note:** Previous rule 420-4-1-.06 entitled "Appeal and Penalty" filed September 1, 1982. **Repealed and Replaced:** Filed May 26, 2011, effective date June 30, 2011.