

**\*\*\*DRAFT - NOT FOR FILING\*\*\***

**3901-8-06 HIV model consent form.**

- (A) Purpose. ~~The purpose of this rule is to establish the form and content of the written consent form an insurer must use in order to obtain an applicant's consent to an HIV test.~~

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- (B) Authority. ~~This rule is issued pursuant to the authority vested in the superintendent under section 3901.041 of the Revised Code.~~

This rule is promulgated pursuant to the authority vested in the superintendent under section 3901.041 of the Revised Code.

- (C) Applicability. ~~This rule applies to all insurers permitted by Chapter 3901. of the Revised Code to require applicants for life or sickness and accident insurance coverage to submit to an HIV test.~~

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- (D) Definitions:

(1) "AIDS" means the illness designated as acquired immune deficiency syndrome.

(2) "HIV" means the human immunodeficiency virus identified as the causative agent of AIDS.

(3) "HIV test" means any test for the antibody or antigen to HIV that has been approved by the director of health under division (B) of section 3701.241 of the Revised Code.

(4) "Insurer" means any person authorized to engage in the business of life or sickness and accident insurance under Title XXXIX of the Revised Code or any person or governmental entity providing health services coverage for individuals on a self-insurance basis.

- (E) Written consent to HIV test. ~~Division (B)(1) of section 3901.46 of the Revised Code, provides that an insurer that requests an applicant to take an HIV test shall obtain the applicant's written consent for the test and shall inform the applicant of the purpose of the test.~~

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In obtaining the applicant's written consent to an HIV test, the insurer must use the exact form set forth in appendix I to this rule.

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(F) Severability. ~~If any section, term or provision of this rule be adjudged invalid for any reason, such judgment shall not affect, impair or invalidate any other section, term or provision of this rule, but the remaining sections, terms and provisions shall be and continue in full force and effect.~~ If any portion of this rule or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the rule or related rules which can be given effect without the invalid portion or application, and to this end the provisions of this rule are severable.

## APPENDIX I

### HIV test informed consent form

INSURER: (Name and Address)

In order for us to evaluate your eligibility for insurance coverage, we request that you provide a blood or other bodily fluid sample for HIV testing and analysis. The test that will be performed will determine the presence of antibodies to the HIV virus. By signing and dating this form, you agree that the HIV antibody test may be performed on your blood or other bodily fluid sample and that underwriting decisions may be based on the test results. A positive test result will adversely affect your insurance application. It also may result in uninsurability for life, health, or disability insurance for which you may apply in the future.

Human Immunodeficiency Virus (HIV)

The HIV virus causes a life-threatening disorder of the immune system called Acquired Immune Deficiency Syndrome (AIDS). Antibodies to HIV are found in the blood and other bodily fluids of people who have been exposed to the virus. You do not have to have AIDS to have antibodies against HIV. The virus is spread by sexual contact with an infected person, by exposure to infected blood (as in needle sharing during intravenous drug use or, rarely, as a result of a blood transfusion), or from an infected mother to her new-born infant.

The HIV antibody test is actually a series of tests performed upon your blood or other bodily fluid sample by a medically accepted procedure which is extremely reliable. The testing will be performed by a licensed laboratory.

PRE-TESTING CONSIDERATION:

Many public health organizations have recommended that before taking an HIV virus antibody test a person seek counseling to become informed about the implications of such tests. You may wish to consider counseling, at your expense, prior to being tested.

DISCLOSURE OF TEST RESULTS:

All test results are confidential, except as provided by law. State law requires that the laboratory notify the Ohio Department of Health of positive test results.

The results of the test will be reported to the insurance company named on your application for insurance. The insurer may not by law, release positive test results except as provided below:

If your HIV antibody test result is normal (negative), you will not be notified. You will be notified of an abnormal (positive) test result if you indicate that you desire a positive result be made known to you. You may also identify another person to whom you want the positive results released.

If you want a physician or other health care provider to be notified of an abnormal HIV antibody test result, you must indicate the name and address of that physician or provider.

Abnormal test results may be disclosed to persons hired by the insurer who participate in medical underwriting decisions of the insurer. Abnormal test results may also be disclosed to affiliates of the insurer who require the result for medical underwriting purposes.

In addition, if your HIV antibody test is abnormal, a generic code signifying a nonspecific blood, oral fluid (saliva) or urine abnormality may be made known to the ~~Medical Information Bureau, Inc.~~ [MIB Group, Holdings Inc.](#) (MIB). The MIB is an organization of life and health insurance companies which operates as an information exchange on behalf of its members. There will be no record with the MIB that you had a positive HIV antibody test; however, there will be a record at the MIB that you have some blood, oral fluid, or urine abnormality. If you apply to another MIB member company for life or health insurance coverage, the MIB, upon request, will supply the information on you in its file to that member.

#### TEST RESULTS:

While a positive test result does not necessarily mean that you have AIDS, it does mean that you are at a greater risk of developing AIDS or AIDS-related conditions if you do not take appropriate medications. If you are infected with HIV, you are infectious to others. You should seek medical follow-up care with your personal health care provider.

HIV test results are highly reliable but not 100% accurate. If the test gives a positive result you should consider retesting in order to confirm the result. If the test gives a negative result, there is still a small possibility you may be infected with HIV. This is most likely to happen in recently infected persons. It takes at least 4 to 12 weeks for a positive test result to develop after a person is infected, and may take as long as 6 to 12 months.

#### OTHER SOURCES OF INFORMATION:

For more information about HIV or AIDS you may ask a doctor, a nurse, a counselor, or call the Ohio AIDS Hotline at 1-800-332-AIDS (2437). The hotline is a free call.

#### CONSENT FOR HIV TESTING:

I have read and I understand this HIV test informed consent form. I voluntarily consent to the withdrawal of blood or to the providing of another bodily fluid sample, the testing of my blood or other bodily fluid for HIV antibodies, and the disclosure of the test results as described above. I will be given a copy of this form. This consent is valid for ninety (90) days from the day of my signature below. Insurer agrees to complete testing and provide the authorized notifications, as appropriate, within 90 (ninety) day period.

In the event of a positive test result:

\_\_\_\_\_ Send the result to me at:

Address: \_\_\_\_\_

\_\_\_\_\_ I authorize (name of insurer) to send the result to another person:

Name: \_\_\_\_\_

~~Address~~Address: \_\_\_\_\_

\_\_\_\_\_ I authorize (name of insurer) to send the result to the following physician or health care provider:

Physician's Name: \_\_\_\_\_

Address: \_\_\_\_\_

Authorization \_\_\_\_\_

Name of applicant \_\_\_\_\_

\_\_\_\_\_  
Signature of applicant date

\_\_\_\_\_  
Signature of legal guardian, if any date

\_\_\_\_\_  
Signature of person obtaining consent date