

CHAPTER 252

COMMUNICABLE DISEASES

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Cross-reference: See definitions in s. 250.01.

252.01 Definitions. In this chapter:

(1g) “First responder” means a person who, as a condition of employment or as a member of an organization that provides emergency medical care before hospitalization, provides emergency medical care to a sick, disabled or injured individual before the arrival of an ambulance, but who does not provide transportation for a patient.

(1m) “HIV” means any strain of human immunodeficiency virus, which causes acquired immunodeficiency syndrome.

(2) “HIV infection” means the pathological state produced by a human body in response to the presence of HIV.

(3) “Municipality” means any city, village or town.

(4) “Peace officer” has the meaning given in s. 939.22 (22).

(6) “State epidemiologist” means the individual appointed by the state health officer under s. 250.02 (1) as the state epidemiologist for acute and communicable diseases.

(7) “State patrol officer” means an officer of the state traffic patrol under s. 110.07 (1) (a).

(8) “Validated test result” means a result of a test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV that meets the validation requirements determined to be necessary by the state epidemiologist.

History: 1993 a. 27 ss. 281, 283, 320, 338, 339, 341; 1993 a. 252.

252.02 Powers of department. (1) The department may establish systems of disease surveillance and inspection to ascertain the presence of any communicable disease. Any agent of the department may, with a special inspection warrant issued under s. 66.122, enter any building, vessel or conveyance to inspect the same and remove therefrom any person affected by a communicable disease. For this purpose, the agent may require the person in charge of the vessel or conveyance, other than a railway car, to stop the same at any place and may require the conductor of any railway train to stop the train at any station or upon any sidetrack, for such time as may be necessary.

(2) In an emergency, the department may provide those sick with a communicable disease with medical aid and temporary hospital accommodation.

(3) The department may close schools and forbid public gatherings in schools, churches, and other places to control outbreaks and epidemics.

(4) The department may promulgate and enforce rules or issue orders for guarding against the introduction of any communicable disease into the state, for the control and suppression of communicable diseases, for the quarantine and disinfection of persons, localities and things infected or suspected of being infected by a communicable disease and for the sanitary care of jails, state pris-

ons, mental health institutions, schools, hotels and public buildings and connected premises. Any rule or order may be made applicable to the whole or any specified part of the state, or to any vessel or other conveyance. The department may issue orders for any city, village or county by service upon the local health officer. Rules that are promulgated and orders that are issued under this subsection supersede conflicting or less stringent local regulations, orders or ordinances.

(5) If any public officer or employe or any person in charge of any building, vessel, conveyance, jail, state prison, mental health institution or school fails to comply with a rule promulgated or order issued under sub. (4), the department may appoint an agent to execute its rules or orders. Expenses that an agent incurs shall be paid by the unit of government that employs the person or of which the public officer is a member. If the building, vessel, conveyance, mental health institution or school is privately owned the state shall pay the expenses that the agent incurs.

(6) The department may authorize and implement all emergency measures necessary to control communicable diseases.

History: 1981 c. 291; 1993 a. 27 s. 284; Stats. 1993 s. 252.02.

252.03 Duties of local health officers. (1) Every local health officer, upon the appearance of any communicable disease in his or her territory, shall immediately investigate all the circumstances and make a full report to the appropriate governing body and also to the department. The local health officer shall promptly take all measures necessary to prevent, suppress and control communicable diseases, and shall report to the appropriate governing body the progress of the communicable diseases and the measures used against them, as needed to keep the appropriate governing body fully informed, or at such intervals as the secretary may direct. The local health officer may inspect schools and other public buildings within his or her jurisdiction as needed to determine whether the buildings are kept in a sanitary condition.

(2) Local health officers may do what is reasonable and necessary for the prevention and suppression of disease; may forbid public gatherings when deemed necessary to control outbreaks or epidemics and shall advise the department of measures taken.

(3) If the local authorities fail to enforce the communicable disease statutes and rules, the department shall take charge, and expenses thus incurred shall be paid by the county or municipality.

(4) No person may interfere with the investigation under this chapter of any place or its occupants by local health officers or their assistants.

History: 1981 c. 291; 1993 a. 27 s. 285; Stats. 1993 s. 252.03.

252.04 Immunization program. (1) The department shall carry out a statewide immunization program to eliminate mumps, measles, rubella (German measles), diphtheria, pertussis (whooping cough), poliomyelitis and other diseases that the department

specifies by rule, and to protect against tetanus. Any person who immunizes an individual under this section shall maintain records identifying the manufacturer and lot number of the vaccine used, the date of immunization and the name and title of the person who immunized the individual. These records shall be available to the individual or, if the individual is a minor, to his or her parent, guardian or legal custodian upon request.

(2) Any student admitted to any elementary, middle, junior or senior high school or into any day care center or nursery school shall, within 30 school days, present written evidence to the school, day care center or nursery school of having completed the first immunization for each vaccine required for the student's grade and being on schedule for the remainder of the basic and recall (booster) immunization series for mumps, measles, rubella (German measles), diphtheria, pertussis (whooping cough), poliomyelitis, tetanus and other diseases that the department specifies by rule or shall present a written waiver under sub. (3).

(3) The immunization requirement is waived if the student, if an adult, or the student's parent, guardian or legal custodian submits a written statement to the school, day care center or nursery school objecting to the immunization for reasons of health, religion or personal conviction. At the time any school, day care center or nursery school notifies a student, parent, guardian or legal custodian of the immunization requirements, it shall inform the person in writing of the person's right to a waiver under this subsection.

(4) The student, if an adult, or the student's parent, guardian or legal custodian shall keep the school, day care center or nursery school informed of the student's compliance with the immunization schedule.

(5) (a) By the 15th and the 25th school day after the student is admitted to a school, day care center or nursery school, the school, day care center or nursery school shall notify in writing any adult student or the parent, guardian or legal custodian of any minor student who has not met the immunization or waiver requirements of this section. The notices shall cite the terms of those requirements and shall state that court action and forfeiture penalty could result due to noncompliance. The notices shall also explain the reasons for the immunization requirements and include information on how and where to obtain the required immunizations.

(b) 1. A school, day care center or nursery school may exclude from the school, day care center or nursery school any student who fails to satisfy the requirements of sub. (2).

2. Beginning on July 1, 1993, if the department determines that fewer than 98% of the students in a day care center, nursery school or school district who are subject to the requirements of sub. (2) have complied with sub. (2), the day care center or nursery school shall exclude any child who fails to satisfy the requirements of sub. (2) and the school district shall exclude any student enrolled in grades kindergarten to 6 who fails to satisfy the requirements of sub. (2).

3. Beginning on July 1, 1995, if the department determines that fewer than 99% of the students in a day care center, nursery school or school district who are subject to the requirements of sub. (2) have complied with sub. (2), the day care center or nursery school shall exclude any child who fails to satisfy the requirements of sub. (2) and the school district shall exclude any student enrolled in grades kindergarten to 6 who fails to satisfy the requirements of sub. (2).

4. No student may be excluded from public school under this paragraph for more than 10 consecutive school days unless, prior to the 11th consecutive school day of exclusion, the school board provides the student and the student's parent, guardian or legal custodian with an additional notice, a hearing and the opportunity to appeal the exclusion, as provided under s. 120.13 (1) (c) 3.

(6) The school, day care center or nursery school shall notify the district attorney of the county in which the student resides of any minor student who fails to present written evidence of com-

pleted immunizations or a written waiver under sub. (3) within 60 school days after being admitted to the school, day care center or nursery school. The district attorney shall petition the court exercising jurisdiction under chs. 48 and 938 for an order directing that the student be in compliance with the requirements of this section. If the court grants the petition, the court may specify the date by which a written waiver shall be submitted under sub. (3) or may specify the terms of the immunization schedule. The court may require an adult student or the parent, guardian or legal custodian of a minor student who refuses to submit a written waiver by the specified date or meet the terms of the immunization schedule to forfeit not more than \$25 per day of violation.

(7) If an emergency arises, consisting of a substantial outbreak as determined by the department by rule of one of the diseases specified in sub. (2) at a school or in the municipality in which the school is located, the department may order the school to exclude students who are not immunized until the outbreak subsides.

(8) The department shall provide the vaccines without charge, if federal or state funds are available for the vaccines, upon request of a school district or a local health department. The department shall provide the necessary professional consultant services to carry out an immunization program, under the requirements of sub. (9), in the jurisdiction of the requesting local health department. Persons immunized may not be charged for vaccines furnished by the department.

(9) (a) An immunization program under sub. (8) shall be supervised by a physician, selected by the school district or local health department, who shall issue written orders for the administration of immunizations that are in accordance with written protocols issued by the department.

(b) If the physician under par. (a) is not an employe of the county, city, village or school district, receives no compensation for his or her services under par. (a) and acts under par. (a) in accordance with written protocols issued by the department, he or she is a state agent of the department for the purposes of ss. 165.25 (6), 893.82 (3) and 895.46.

(c) The department may disapprove the selection made under par. (a) or may require the removal of a physician selected.

(10) The department shall, by rule, prescribe the mechanisms for implementing and monitoring compliance with this section. The department shall prescribe, by rule, the form that any person immunizing a student shall provide to the student under sub. (1).

(11) Annually, by July 1, the department shall submit a report to the legislature under s. 13.172 (3) on the success of the statewide immunization program under this section.

History: 1993 a. 27 ss. 181, 470; 1995 a. 32, 77, 222.

252.05 Reports of cases. (1) Any person licensed, permitted, registered or certified under ch. 441 or 448 knowing or having reason to know that a person treated or visited by him or her has a communicable disease, or having a communicable disease, has died, shall report the appearance of the communicable disease or the death to the local health officer. The local health officer shall report this information to the department or shall direct the person reporting to report to the department. Any person directed to report shall submit this information to the department.

(2) Each laboratory shall report as prescribed by the department those specimen results that the department finds necessary for the surveillance, control, diagnosis and prevention of communicable diseases.

(3) Anyone having knowledge or reason to believe that any person has a communicable disease shall report the facts to the local health officer.

(4) Reports under subs. (1) and (2) shall state so far as known the name, sex, age and residence of the person, the communicable disease and other facts the department or local health officer requires. Report forms may be furnished by the department and distributed by the local health officer.

(5) All reports shall be made within 24 hours, unless otherwise specified by the department, by telephone, telegraph, mail or electronic means or by deposit at the office of the local health officer.

(6) Any local health officer, upon receiving a report, shall cause a permanent record of the report to be made and upon demand of the department transmit the original or a copy to the department, together with other information the department requires. The department may store these records as paper or electronic records and shall treat them as patient health care records under ss. 146.81 to 146.835.

(7) When an outbreak or epidemic occurs, the local health officer shall immediately report to the department, and shall at all times keep the department informed of the prevalence of the communicable diseases in the locality in the manner and with the facts the department requires.

(8) The department shall print and distribute, without charge, to all local health departments and, upon request, to health care providers and facilities a chart that provides information about communicable diseases.

(9) Any person licensed, permitted, registered or certified under ch. 441 or 448 shall use ordinary skill in determining the presence of communicable diseases. If there is a dispute regarding disease determination, if the disease may have potential public health significance or if more extensive laboratory tests will aid in the investigation, the local health officer shall order the tests made by the state laboratory of hygiene or by a laboratory certified under 42 USC 263a.

(11) If a violation of this section is reported to a district attorney by a local health officer or by the department, the district attorney shall forthwith prosecute the proper action, and upon request of the department, the attorney general shall assist.

History: 1971 c. 164 s. 91; 1981 c. 291; 1993 a. 16; 1993 a. 27 ss. 286 to 291, 293, 294, 471; Stats. 1993 s. 252.05; 1993 a. 183.

252.06 Isolation and quarantine. (1) The department or the local health officer acting on behalf of the department may require isolation of the patient, quarantine of contacts, concurrent and terminal disinfection, or modified forms of these procedures as may be necessary and which are determined by the department by rule.

(3) If a local health officer suspects or is informed of the existence of any communicable disease, the officer shall at once investigate and make or cause such examinations to be made as are necessary. The diagnostic report of a physician, the notification or confirmatory report of a parent or caretaker of the patient, or a reasonable belief in the existence of a communicable disease shall require the local health officer immediately to quarantine, isolate, require restrictions or take other communicable disease control measures in the manner, upon the persons and for the time specified in rules promulgated by the department. If the local health officer is not a physician, he or she shall consult a physician as speedily as possible where there is reasonable doubt or disagreement in diagnosis and where advice is needed. The local health officer shall investigate evasion of the laws and rules concerning communicable disease and shall act to protect the public.

(4) If deemed necessary by the department or a local health officer for a particular communicable disease, all persons except the local health officer, his or her representative, attending physicians and nurses, members of the clergy, the members of the immediate family and any other person having a special written permit from the local health officer are forbidden to be in direct contact with the patient.

(5) The local health officer shall employ as many persons as are necessary to execute his or her orders and properly guard any place if quarantine or other restrictions on communicable disease are violated or intent to violate is manifested. These persons shall be sworn in as quarantine guards, shall have police powers, and may use all necessary means to enforce the state laws for the prevention and control of communicable diseases, or the orders and rules of the department or any local health officer.

(6) (a) When the local health officer deems it necessary that a person be quarantined or otherwise restricted in a separate place, the officer shall remove the person, if it can be done without danger to the person's health, to this place.

(b) When a person confined in a jail, state prison, mental health institute or other public place of detention has a disease which the local health officer or the director of health at the institution deems dangerous to the health of other residents or the neighborhood, the local health officer or the director of health at the institution shall order in writing the removal of the person to a hospital or other place of safety, there to be provided for and securely kept. Upon recovery the person shall be returned; and if the person was committed by a court or under process the removal order or a copy shall be returned by the local health officer to the committing court officer.

(10) (a) Expenses for necessary medical care, food and other articles needed for the care of the infected person shall be charged against the person or whoever is liable for the person's support.

(b) The county or municipality in which a person with a communicable disease resides is liable for the following costs accruing under this section, unless the costs are payable through 3rd-party liability or through any benefit system:

1. The expense of employing guards under sub. (5).

2. The expense of maintaining quarantine and enforcing isolation of the quarantined area.

3. The expense of conducting examinations and tests for disease carriers made under the direction of the local health officer.

4. The expense of care provided under par. (a) to any dependent person, as defined in s. 49.01 (2).

History: 1981 c. 291; 1983 a. 189 s. 329 (19); 1993 a. 27 s. 295; Stats. 1993 s. 252.06.

252.07 Tuberculosis. (1) Tuberculosis is a communicable disease caused by mycobacterium tuberculosis and is subject to the reporting requirements specified in s. 252.05. Any laboratory that performs a test for tuberculosis shall report all positive results to the local health officer and to the department.

(2) The department shall identify groups at risk for contracting or transmitting mycobacterium tuberculosis and shall recommend the protocol for screening members of those groups. If necessary to prevent or control the transmission of mycobacterium tuberculosis, the department may promulgate rules that require screening of members of specific groups that are at risk for contracting or transmitting mycobacterium tuberculosis.

(4) Any court of record may commit a person infected with mycobacterium tuberculosis to a place that will provide proper care and prevent the spread of the disease if the disease is diagnosed by a medical, laboratory or X-ray examination and if the person fails to comply with this chapter or with rules of the department concerning tuberculosis. If the local health officer or any resident of the municipality in which an alleged violation of this subsection occurs petitions the court and states the facts of the alleged violation, the court shall summon the person infected with tuberculosis to appear in court on a date at least 48 hours, but not more than 96 hours, after service of the summons. The court may order the person discharged. If the administrative officer of the institution has good cause to believe that a person who is committed may leave without a court order, the officer may restrain the person from leaving. The administrative officer may segregate any person who is committed, as needed.

(5) Upon report of any person under sub. (1), the local health officer shall at once investigate and make and enforce the necessary orders.

(7) For the purpose of this section persons in charge of common carriers shall have police powers.

History: 1971 c. 158; 1975 c. 383 s. 4; 1975 c. 421; 1981 c. 291; 1993 a. 27 s. 296, 472; Stats. 1993 s. 252.07; 1993 a. 490.

252.073 County tuberculosis sanatoriums. (1) ESTABLISHMENT, GOVERNMENT. Every county may, under this section,

establish a county tuberculosis sanatorium. In counties with a population of 500,000 or more the institution shall be governed under s. 46.21. In all other counties it shall be governed under ss. 46.18, 46.19 and 46.20, except as otherwise provided in this chapter.

(2) **SUPERINTENDENT.** The superintendent shall be either a registered nurse with a graduate degree in nursing or a physician. If the superintendent is a registered nurse, the trustees shall appoint and fix the compensation of a visiting physician, and may appoint and fix the compensation of a business manager other than the superintendent, and a director of occupational therapy. The director of occupational therapy may be employed on a part-time basis jointly with other county or state institutions.

(3) **COMPENSATION OF TRUSTEES.** The trustees of the sanatorium shall receive compensation as determined under the provisions of s. 59.22.

(4) **SITE AND BUILDING REGULATIONS.** The department shall fix reasonable standards for the construction and repair of county tuberculosis sanatoriums with respect to their adequacy and fitness for the needs of the community which they are to serve. Purchase of sites shall be subject to the approval of the department.

(5) **APPROVAL OF PLANS FOR SANATORIUM.** The plans and specifications for such sanatorium buildings must be approved by the department as conforming with said standards and all the requirements of this chapter before any building is constructed.

(6) **TRUSTEES OF COUNTY SANATORIUM.** The county sanatorium shall be controlled and managed, subject to regulations approved by the county board, by 3 trustees (electors of the county) elected by the county board in the manner, at the times, for the terms, and subject to the limitations and conditions provided in s. 46.18.

(7) **REPORT OF TRUSTEES TO DEPARTMENT.** On each July 1 the trustees shall prepare a detailed financial report, as specified in s. 46.18 (7) to (10), for the preceding fiscal year and shall transmit one copy to the department, one copy to the county clerk and keep one copy on file at the sanatorium. Such report shall be accompanied by an inventory of all properties on hand at the end of the fiscal year, an estimate of the receipts and expenses of the current year and the reports of the superintendent and visiting physicians. A copy of this report shall be on file in the department not later than August 15 following the close of the fiscal year.

(8) **SEMIANNUAL INSPECTION OF BUILDINGS.** Before the occupancy of any such building, and semiannually thereafter, the department shall cause such building to be inspected with respect to its safety, sanitation, adequacy and fitness, and report to the authorities conducting said institution any deficiency found, stating the nature of the deficiency, in whole or in part, and ordering the necessary work to correct it or that a new building shall be provided. If within 6 months thereafter such work be not commenced, or not completed within a reasonable period thereafter, to the satisfaction of the department, it shall suspend the allowance of any state aid for, and prohibit the use of such building for the purposes of said institution until said order shall have been complied with.

History: 1975 c. 413 s. 2; Stats. 1975 s. 149.01; 1977 c. 29; 1983 a. 27; 1991 a. 274; 1993 a. 27 s. 397; Stats. 1993 s. 252.073; 1995 a. 201.

252.076 Joint county home and county tuberculosis sanatorium. (1) Such portions of the buildings, grounds and facilities of an established county tuberculosis sanatorium not needed for hospitalization or treatment of tuberculosis patients and such improvements and additions as the county board of supervisors may make in connection therewith may be established and used as a county home for the aged or a unit thereof when the board of supervisors of the county by a majority vote of its members so determines and makes provision therefor in accordance with this section.

(2) No county home or unit thereof so established shall be used or occupied for such purpose unless and until:

(a) The facilities used as a county home for the aged are separated from the remaining facilities used as a tuberculosis sanatorium in a manner designed to prevent the spread of tuberculosis and approved by the department.

(b) The buildings thereof are disinfected in a manner approved by the department; and

(c) Adequate provision is made for sanitation of dishes and tableware and precaution is taken to prevent food contamination and introduction of a source of infection to the county home unit, in accordance with such methods and standards as the department may prescribe.

(3) Management of the 2 jointly housed units shall be separate and distinct. The county home unit shall for all purposes be deemed part of, and managed and operated by the same authorities as any previously established and existing county home of the county. Except as otherwise provided by statute and so far as applicable, this section and ss. 252.073 and 252.08 shall continue to apply to a jointly housed county tuberculosis sanatorium and ss. 49.70 and 49.703 shall apply to a jointly housed county home or a unit of a jointly housed county home.

(4) When separate facilities for any such services are not provided for each institution the trustees of the county tuberculosis sanatorium shall hold and manage, employ necessary employees to operate and do the purchasing for the operation of a common kitchen, laundry, heating plant, power plant, water supply or other joint facilities, for the use and benefit of both institutions.

(5) This section shall not apply to counties having a population of 500,000 or more.

History: 1975 c. 413 ss. 2, 18; Stats. 1975 s. 149.02; 1977 c. 29; 1983 a. 27; 1993 a. 27 s. 398; Stats. 1993 s. 252.076; 1995 a. 27.

252.08 Tuberculosis acute treatment centers; maintenance charges; liability of relatives. (1) Hospitals as defined in s. 50.33, tuberculosis sanatoriums under ss. 252.073 (1) and 252.076 (1) and private tuberculosis sanatoriums under s. 58.06 may submit a request to the department for a certificate of approval as a tuberculosis acute treatment center. The department shall issue a certificate of approval if the hospital or sanatorium meets the standards under 42 USC 1396 to 1397e and the rules promulgated and standards established by the department. The certification is to be renewed by the department as provided under ss. 50.32 to 50.39. The certificate of approval shall apply only for the premises, persons and services named in the application and may not be transferred or assigned. The department may not withhold, suspend or revoke a certificate of approval unless the hospital or sanatorium substantially fails to comply with ss. 50.32 to 50.39, the standards under 42 USC 1396 to 1397e or the rules promulgated and standards established by the department, after having been given a reasonable notice, a fair hearing and an opportunity to comply. The rules and standards for the operation of the hospital or sanatoriums providing care for patients with active tuberculosis shall be promulgated and established by the department.

(2) Community-based residential facilities under ch. 50 shall request a certificate of approval from the department in order to provide care for patients suffering from tuberculosis based on rules promulgated and standards established by the department.

(3) Inpatient care exceeding 30 days for pulmonary tuberculosis patients not eligible for federal medicare benefits, for medical assistance under subch. V of ch. 49 or for health care services funded by a relief block grant under subch. II of ch. 49 may be reimbursed if provided by a facility contracted by the department. If the patient has private health insurance, the state shall pay the difference between health insurance payments and total charges.

(4) The state shall also assume the charges not collected from insurance, medicaid, and other benefits for:

(a) Care of patients transferred to facilities approved under this section from state institutions or from state penal institutions under s. 304.115.

(b) Care of any minor committed to the department in an approved facility under this section.

(5) (a) The department shall ensure that charges to the state for care in facilities approved under this section reflect reasonable and accurate expenses in providing the care.

(b) The records and accounts of all facilities approved under this section shall be available to the department upon request and shall comply with accepted accounting practices.

(6) Whenever a person is admitted to a tuberculosis hospital or sanatorium and the expense of maintenance in the tuberculosis hospital or sanatorium is chargeable to the state or any subdivision of the state or both, the relative of the person, if the person is dependent as described in s. 49.90, shall be liable to the state or any subdivision of the state in the manner and to the extent provided in s. 49.90. The district attorney of any county in which the relative resides shall, at the request of the circuit judge or the governing body of the institution, take all necessary procedures to enforce the provisions of this section.

History: 1993 a. 27 ss. 399, 401, 402, 404, 420; 1993 a. 213, 490; 1995 a. 27.

252.09 General supervision and inspection of tuberculosis hospitals; charges. (1) The department shall:

(a) Investigate and supervise all of the tuberculosis hospitals and sanatoriums of every county and other municipality, and become familiar with all of the circumstances affecting their management and usefulness.

(b) Visit each of the tuberculosis hospitals and sanatoriums and inquire into their methods of treatment, instruction, government and management of their patients; the official conduct of their trustees, managers, directors, superintendents and other officers and employees; the condition of the buildings, grounds and all other property pertaining to the tuberculosis hospitals and sanatoriums, and all other matters pertaining to their usefulness and management; and recommend to the officers in charge the changes and additional provisions that the department considers proper.

(c) Inspect each tuberculosis hospital and sanatorium annually, or oftener if necessary and, if directed by the governor, investigate the past or present management, or anything connected with the management, and report to the governor the testimony taken, facts found and conclusions made.

(d) Inform the governor, and the district attorney of the county in which the tuberculosis hospital and sanatorium is located, of any violation of law disclosed in any investigation of the tuberculosis hospital and sanatorium.

(2) All trustees, managers, directors, superintendents and other officers or employees of a tuberculosis hospital and sanatorium shall at all times afford, to the department or its agents, inspection of and free access to all parts of the buildings and grounds and to all books and papers of the tuberculosis hospital and sanatorium and shall give, either verbally or in writing, information that the department requires. Any person violating this subsection shall forfeit not less than \$10 nor more than \$100. The department may administer oaths and take testimony and may cause depositions to be taken. All expenses of the investigations, including fees of officers and witnesses, shall be paid from the appropriation under s. 20.435 (1) (a).

History: 1973 c. 90; 1975 c. 39; 1975 c. 413 s. 2; Stats. 1975 s. 149.07; 1983 a. 192 s. 303 (7); 1987 a. 399; 1993 a. 27 ss. 415 to 417; Stats. 1993 s. 252.09; 1993 a. 213, 490, 491.

252.10 Public health dispensaries. (1) Counties with populations of more than 25,000 may establish and maintain public health dispensaries and, where necessary, branches of the dispensaries for the diagnosis and treatment of persons suffering from or suspected of having mycobacterium tuberculosis or other pulmonary diseases. Two or more counties may jointly establish, operate and maintain public health dispensaries in order to serve a total population of not less than 25,000. Counties may contract with each other for public health dispensary services. The department and department of revenue shall be notified of the establish-

ment of public health dispensaries and any contracts pertaining to the dispensaries. The department may establish, operate and maintain public health dispensaries and branches in areas of the state where local authorities have not provided public health dispensaries.

(3) A county or counties jointly, and the department, may contract with other agencies, hospitals and individuals for the use of necessary space, equipment, facilities and personnel to operate a public health dispensary or for provision of medical consultation.

(5) Fees may but need not be charged for services rendered in public health dispensaries operated by one or more counties or the department. A schedule of fees shall be established by the respective operating agencies and shall be based upon reasonable costs. A copy of such schedule and any subsequent changes shall be forwarded to the department and the department of revenue. Fees received by the department shall be used as a nonlapsing appropriation for the maintenance and operation of its public health dispensaries together with other funds received for this purpose.

(6) (a) The state shall credit or reimburse each dispensary on an annual or quarterly basis for the operation of public health dispensaries established and maintained in accordance with this section.

(b) The state reimbursement for each visit for services as ordered by a physician shall be \$6 or a greater amount prescribed in rules promulgated by the department. If an X-ray is taken, an additional \$6 or any greater amount prescribed in rules promulgated by the department will be credited. Any X-ray taken outside a facility under this section or outside a facility approved under s. 252.08 on individuals who have a significant reaction to a test for mycobacterium tuberculosis shall qualify for state aid in the same manner as an X-ray taken inside a facility, and the X-ray shall take the place of the first X-ray eligible for reimbursement as part of a case finding and preventive program under par. (e). The administration and reading of the test for mycobacterium tuberculosis for diagnostic purposes shall be considered one visit. Tests for mycobacterium tuberculosis given in school programs, employment health programs, community preventive and case finding programs are not reimbursable as a clinic visit.

(c) Not more than one patient visit for any person shall be credited within a period of less than 12 hours, nor for any visit made solely for the receipt of drugs and not requiring professional medical services; nor shall more than one visit be credited where a single fee has been established for a particular service. Public health nursing visits to patients suffering from active tuberculosis and using specific medication shall be reimbursed in the same manner as a dispensary visit, if the visit is ordered by a physician giving care to the patient. Not more than 4 visits in one year to each patient shall be credited.

(d) State aid may not be credited for visits made by a person who does not have symptoms of, or evidence by medical examination indicating suspicion of, clinical tuberculosis, unless the person has X-ray evidence to that effect, is known to have converted from a negative to a significant test for mycobacterium tuberculosis within a period of 3 years, has a significant test for mycobacterium tuberculosis and is a close school or close employment contact to a suspected case, or is a household contact to a case regardless of the results of the test.

(e) Net income in excess of expenses from fees collected from patients of the public health dispensary shall be used to finance case finding and preventive programs in the community.

(f) The organization and methods of operation of a case finding preventive program shall be approved by the department. State aid may not be credited for the administration and reading of the test for mycobacterium tuberculosis. A reimbursement of \$12 or any greater amount prescribed in rules promulgated by the department shall be credited to the agency approved to conduct such a program for the initial chest X-ray examination, for the interpretation of the same and for the consultation of the physician conducting such a program. A patient completing chemoprophylaxis may

receive a 2nd chest X-ray examination, interpretation and medical consultation for which an additional \$12 or any greater amount prescribed in rules promulgated by the department shall be credited. Guidelines for care during chemoprophylaxis shall be established by the department. Reimbursement shall be \$6 per visit or any greater amount prescribed in rules promulgated by the department.

(g) The reimbursement by the state under pars. (a) to (f) shall apply only to funds that the department allocates for the reimbursement under the appropriation under s. 20.435 (1) (e).

(7) Drugs necessary for the treatment of mycobacterium tuberculosis shall be purchased by the department from the appropriation under s. 20.435 (1) (e) and dispensed to patients through the public health dispensaries or through health care providers, as defined in s. 146.81 (1), other than social workers, marriage and family therapists or professional counselors certified under ch. 457, speech–language pathologists or audiologists licensed under subch. II of ch. 459, speech and language pathologists licensed by the department of education or, on or after July 1, 1995, and no later than June 30, 1999, dietitians certified under subch. IV of ch. 448.

NOTE: Sub. (7) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27, s. 9145 (1). The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA.

(9) Public health dispensaries shall maintain such records as are required by the department to enable them to carry out their responsibilities designated in this section. Records shall be submitted annually to the department as soon as possible after the close of each fiscal year and not later than August 15 following.

(10) All public health dispensaries and branches thereof shall maintain records of costs and receipts which may be audited by the department of health and family services.

History: 1971 c. 81; 1971 c. 211 s. 124; 1973 c. 90; 1975 c. 39, 198, 224; 1975 c. 413 ss. 2, 18; Stats. 1975 s. 149.06; 1977 c. 29; 1981 c. 20 ss. 1446, 2202 (20) (c); 1983 a. 27; 1985 a. 29; 1991 a. 39, 160; 1993 a. 27 ss. 406, 407, 409, 411 to 414; Stats. 1993 s. 252.10, 1993 a. 443; 1995 a. 27 ss. 6318, 9126 (19), 9145 (1).

252.11 Sexually transmitted disease. (1) In this section, “sexually transmitted disease” means syphilis, gonorrhea, chlamydia and other diseases the department includes by rule.

(1m) A physician or other health care professional called to attend a person infected with any form of sexually transmitted disease, as specified in rules promulgated by the department, shall report the disease to the local health officer and to the department in the manner directed by the department in writing on forms furnished by the department. A physician may treat a minor infected with a sexually transmitted disease or examine and diagnose a minor for the presence of such a disease without obtaining the consent of the minor’s parents or guardian. The physician shall incur no civil liability solely by reason of the lack of consent of the minor’s parents or guardian.

(2) An officer of the department or a local health officer having knowledge of any reported or reasonably suspected case or contact of a sexually transmitted disease for which no appropriate treatment is being administered, or of an actual contact of a reported case or potential contact of a reasonably suspected case, shall investigate or cause the case or contact to be investigated as necessary. If, following a request of an officer of the department or a local health officer, a person reasonably suspected of being infected with a sexually transmitted disease refuses or neglects examination by a physician or treatment, an officer of the department or a local health officer may proceed to have the person committed under sub. (5) to an institution or system of care for examination, treatment or observation.

(4) If a person infected with a sexually transmitted disease ceases or refuses treatment before reaching what in the physician’s opinion is the noncommunicable stage, the physician shall notify the department. The department shall without delay take the necessary steps to have the person committed for treatment or observation under sub. (5), or shall notify the local health officer to take these steps.

(5) Any court of record may commit a person infected with a sexually transmitted disease to any institution or may require the person to undergo a system of care for examination, treatment or observation if the person ceases or refuses examination, treatment or observation under the supervision of a physician. The court shall summon the person to appear on a date at least 48 hours, but not more than 96 hours, after service if an officer of the department or a local health officer petitions the court and states the facts authorizing commitment. If the person fails to appear or fails to accept commitment without reasonable cause, the court may cite the person for contempt. The court may issue a warrant and may direct the sheriff, any constable or any police officer of the county immediately to arrest the person and bring the person to court if the court finds that a summons will be ineffectual. The court shall hear the matter of commitment summarily. Commitment under this subsection continues until the disease is no longer communicable or until other provisions are made for treatment that satisfy the department. The certificate of the petitioning officer is prima facie evidence that the disease is no longer communicable or that satisfactory provisions for treatment have been made.

(5m) A health care professional, as defined in s. 968.38 (1) (a), acting under an order of a court under s. 938.296 (4) or 968.38 (4) may, without first obtaining informed consent to the testing, subject an individual to a test or a series of tests to ascertain whether that individual is infected with a sexually transmitted disease. No sample used for performance of a test under this subsection may disclose the name of the test subject.

(7) Reports, examinations and inspections and all records concerning sexually transmitted diseases are confidential and not open to public inspection, and shall not be divulged except as may be necessary for the preservation of the public health, in the course of commitment proceedings under sub. (5) or as provided under s. 938.296 (4) or 968.38 (4). If a physician has reported a case of sexually transmitted disease to the department under sub. (4), information regarding the presence of the disease and treatment is not privileged when the patient or physician is called upon to testify to the facts before any court of record.

(9) The department shall prepare for free distribution upon request to state residents, information and instructions concerning sexually transmitted diseases.

(10) The state laboratory of hygiene shall examine specimens for the diagnosis of sexually transmitted diseases for any physician or local health officer in the state, and shall report the positive results of the examinations to the local health officer and to the department. All laboratories performing tests for sexually transmitted diseases shall report all positive results to the local health officer and to the department, with the name of the physician to whom reported.

(11) In each county with an incidence of gonorrhea, antibiotic resistant gonorrhea, chlamydia or syphilis that exceeds the state-wide average, a program to diagnose and treat sexually transmitted diseases at no cost to the patient is required. The county board of supervisors is responsible for ensuring that the program exists, but is required to establish its own program only if no other public or private program is operating. The department shall compile statistics indicating the incidence of gonorrhea, antibiotic resistant gonorrhea, chlamydia and syphilis for each county in the state.

History: 1971 c. 42, 125; 1973 c. 90; 1975 c. 6; 1975 c. 383 s. 4; 1975 c. 421; 1981 c. 291; 1991 a. 269; 1993 a. 27 s. 297; Stats. 1993 s. 252.11; 1993 a. 32; 1995 a. 77.

252.12 Services relating to acquired immunodeficiency syndrome. (1) DEFINITIONS. In this section:

(c) “Nonprofit corporation” means a nonstock, nonprofit corporation organized under ch. 181.

(d) “Organization” means a nonprofit corporation or a public agency which proposes to provide services to individuals with acquired immunodeficiency syndrome.

(e) “Public agency” means a county, city, village, town or school district or an agency of this state or of a county, city, village, town or school district.

(2) DISTRIBUTION OF FUNDS. (a) *Acquired immunodeficiency syndrome services.* From the appropriations under s. 20.435 (1) (a) and (am), the department shall distribute funds for the provision of services to individuals with or at risk of contracting acquired immunodeficiency syndrome, as follows:

1. ‘Partner referral and notification.’ The department shall contact an individual known to have received an HIV infection and encourage him or her to refer for counseling and HIV testing any person with whom the individual has had sexual relations or has shared intravenous equipment.

2. ‘Grants to local projects.’ The department shall make grants to applying organizations for the provision of acquired immunodeficiency syndrome prevention information, the establishment of counseling support groups and the provision of direct care to persons with acquired immunodeficiency syndrome.

3. ‘Statewide public education campaign.’ The department shall promote public awareness of the risk of contracting acquired immunodeficiency syndrome and measures for acquired immunodeficiency syndrome protection by development and distribution of information through family planning clinics, offices of physicians and clinics for sexually transmitted diseases and by newsletters, public presentations or other releases of information to newspapers, periodicals, radio and television stations and other public information resources. The information would be targeted at individuals whose behavior puts them at risk of contracting acquired immunodeficiency syndrome and would encompass the following topics:

- a. Acquired immunodeficiency syndrome and HIV infection.
- b. Means of identifying whether or not individuals may be at risk of contracting acquired immunodeficiency syndrome.
- c. Measures individuals may take to protect themselves from contracting acquired immunodeficiency syndrome.
- d. Locations for procuring additional information or obtaining testing services.

4. ‘Information network.’ The department shall establish a network to provide information to local health officers and other public officials who are responsible for acquired immunodeficiency syndrome prevention and training.

5. ‘HIV seroprevalence studies.’ The department shall perform tests for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV and conduct behavioral surveys among population groups determined by the department to be highly at risk of becoming infected with or transmitting HIV. Information obtained shall be used to develop targeted HIV prevention efforts for these groups and to evaluate the state’s prevention strategies.

6. ‘Grants for targeted populations and intervention services.’ The department shall make grants to those applying organizations determined by the department to be best able to contact individuals determined to be highly at risk of contracting acquired immunodeficiency syndrome for the provision of acquired immunodeficiency syndrome information and intervention services.

7. ‘Contracts for counseling and laboratory testing services.’ The department shall distribute funding in each fiscal year to contract with organizations to provide, at alternate testing sites, anonymous counseling services and laboratory testing services for the presence of HIV.

8. ‘Life care and early intervention services.’ The department shall award not more than \$1,647,700 in each year in grants to applying organizations for the provision of needs assessments; assistance in procuring financial, medical, legal, social and pastoral services; counseling and therapy; homecare services and supplies; advocacy; and case management services. These services shall include early intervention services. The department shall also award not more than \$74,000 in each year from the appropriation under s. 20.435 (7) (md) for the services under this subdivi-

sion. The state share of payment for case management services that are provided under s. 49.45 (25) (be) to recipients of medical assistance shall be paid from the appropriation under s. 20.435 (1) (am).

(b) *Prevention training for alcohol and drug abuse workers.* From the appropriation under s. 20.435 (6) (mc), the department shall allocate \$25,000 in each of state fiscal years 1989–90 and 1990–91 to provide training for persons providing alcohol and other drug abuse services and counseling under s. 115.36 (3) or through county departments under s. 46.21, 46.23, 51.42 or 51.437, in order to enable these persons to educate individuals who are drug dependent with respect to the use of shared intravenous equipment and acquired immunodeficiency syndrome and its prevention.

(c) *HIV prevention grants.* From the appropriation under s. 20.435 (7) (md), the department shall award to applying nonprofit corporations or public agencies up to \$75,000 in each fiscal year, on a competitive basis, as grants for services to prevent HIV. Criteria for award of the grants shall include all of the following:

1. The scope of proposed services, including the proposed targeted population and numbers of persons proposed to be served.
2. The proposed methodology for the prevention services, including distribution and delivery of information and appropriateness of the message provided.
3. The qualifications of the applicant nonprofit corporation or public agency and its staff.
4. The proposed allocation of grant funds to the nonprofit corporation or public agency staff and services.
5. The proposed method by which the applicant would evaluate the impact of the grant funds awarded.

(3) CONFIDENTIALITY OF INFORMATION. The results of any test performed under sub. (2) (a) 5. are confidential and may be disclosed only to the individual who receives a test or to other persons with the informed consent of the test subject. Information other than that released to the test subject, if released under sub. (2) (a) 5., may not identify the test subject.

History: 1987 a. 27, 70, 399; 1989 a. 31, 201, 336; 1991 a. 39, 80; 1993 a. 16; 1993 a. 27 ss. 318, 319, 321, 323; Stats. 1993 s. 252.12; 1995 a. 27.

252.13 Blood tests for HIV. (1) In this section, “autologous transfusion” means the receipt by an individual, by transfusion, of whole blood, blood plasma, a blood product or a blood derivative, which the individual has previously had withdrawn from himself or herself for his or her own use.

(1m) Except as provided under sub. (3), any blood bank, blood center or plasma center in this state that purchases or receives whole blood, blood plasma, a blood product or a blood derivative shall, prior to its distribution or use and with informed consent under the requirements of s. 252.15 (2) (b), subject that the state epidemiologist finds medically significant and sufficiently reliable under sub. (1r) (a) to detect the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV. This subsection does not apply to a blood bank that purchases or receives whole blood, blood plasma, a blood product or a blood derivative from a blood bank, blood center or plasma center in this state if the whole blood, blood plasma, blood product or blood derivative has previously been subjected to a test or series of tests that the state epidemiologist finds medically significant and sufficiently reliable under sub. (1r) (a) to detect the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV.

(1r) For the purposes of this section, the state epidemiologist shall make separate findings of medical significance and sufficient reliability for a test or a series of tests to detect the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV for each of the following purposes:

- (a) Subjecting whole blood, blood plasma, a blood product or a blood derivative to a test prior to distribution or use of the whole blood, blood plasma, blood product or blood derivative.

(b) Providing disclosure of test results to the subject of the test.

(2) If performance of a test under sub. (1m) yields a validated test result positive for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV, the whole blood, blood plasma, blood product or blood derivative so tested with this result may not be distributed or used except for purposes of research or as provided under sub. (5).

(3) If a medical emergency, including a threat to the preservation of life of a potential donee, exists under which whole blood, blood plasma, a blood product or a blood derivative that has been subjected to testing under sub. (1m) is unavailable, the requirement of sub. (1m) shall not apply.

(4) Subsections (1m) and (2) do not apply to the extent that federal law or regulations require that a blood bank, blood center or plasma center test whole blood, blood plasma, a blood product or a blood derivative.

(5) Whole blood, blood plasma, a blood product or a blood derivative described under sub. (2) that is voluntarily donated solely for the purpose of an autologous transfusion may be distributed to or used by the person who has donated the whole blood, blood plasma, blood product or blood derivative. No person other than the person who has donated the whole blood, blood plasma, blood product or blood derivative may receive or use the whole blood, blood plasma, blood product or blood derivative unless it has been subjected to a test under sub. (1m) and the test has yielded a negative result for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV.

History: 1985 a. 73; 1987 a. 70; 1989 a. 201 ss. 9, 36; 1993 a. 27 ss. 325, 473; Stats. 1993 s. 252.13.

252.14 Discrimination related to acquired immunodeficiency syndrome. (1) In this section:

(ad) “Correctional officer” has the meaning given in s. 301.28 (1).

(am) “Fire fighter” has the meaning given in s. 102.475 (8) (b).

(ar) “Health care provider” means any of the following:

1. A nurse licensed under ch. 441.
2. A chiropractor licensed under ch. 446.
3. A dentist licensed under ch. 447.

4. A physician, podiatrist or physical therapist licensed or an occupational therapist or occupational therapy assistant certified under ch. 448.

4m. A dietitian certified under subch. IV of ch. 448. This subdivision does not apply after June 30, 1999.

5. An optometrist licensed under ch. 449.

6. A psychologist licensed under ch. 455.

7. A social worker, marriage and family therapist or professional counselor certified under ch. 457.

8. A speech–language pathologist or audiologist licensed under subch. II of ch. 459 or a speech and language pathologist licensed by the department of education.

NOTE: Subd. 8. is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

8. A speech–language pathologist or audiologist licensed under subch. II of ch. 459 or a speech and language pathologist licensed by the department of public instruction.

9. An employe or agent of any provider specified under subds. 1. to 8.

10. A partnership of any provider specified under subds. 1. to 8.

11. A corporation of any provider specified under subds. 1. to 8. that provides health care services.

12. An operational cooperative sickness care plan organized under ss. 185.981 to 185.985 that directly provides services through salaried employes in its own facility.

13. An emergency medical technician licensed under s. 146.50 (5).

14. A physician assistant certified under ch. 448.

15. A first responder.

(c) “Home health agency” has the meaning specified in s. 50.49 (1) (a).

(d) “Inpatient health care facility” means a hospital, nursing home, community–based residential facility, county home, county mental health complex, tuberculosis sanatorium or other place licensed or approved by the department under ss. 49.70, 49.71, 49.72, 50.02, 50.03, 50.35, 51.08, 51.09, 58.06, 252.073 and 252.076 or a facility under s. 45.365, 48.62, 51.05, 51.06 or 252.10 or ch. 142 [ss. 233.40 to 233.42].

NOTE: The bracketed language indicates the correct cross–reference. 1995 Wis. Act 27 renumbered ch. 142 to be ss. 233.40 to 233.42. Corrective legislation is pending.

(2) No health care provider, peace officer, fire fighter, correctional officer, state patrol officer, jailer or keeper of a jail or person designated with custodial authority by the jailer or keeper, home health agency, inpatient health care facility or person who has access to a validated test result may do any of the following with respect to an individual who has acquired immunodeficiency syndrome or has a positive test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV, solely because the individual has HIV infection or an illness or medical condition that is caused by, arises from or is related to HIV infection:

(a) Refuse to treat the individual, if his or her condition is within the scope of licensure or certification of the health care provider, home health agency or inpatient health care facility.

(am) If a peace officer, fire fighter, correctional officer, state patrol officer, jailer or keeper of a jail or person designated with custodial authority by the jailer or keeper, refuse to provide services to the individual.

(b) Provide care to the individual at a standard that is lower than that provided other individuals with like medical needs.

(bm) If a peace officer, fire fighter, correctional officer, state patrol officer, jailer or keeper of a jail or person designated with custodial authority by the jailer or keeper, provide services to the individual at a standard that is lower than that provided other individuals with like service needs.

(c) Isolate the individual unless medically necessary.

(d) Subject the individual to indignity, including humiliating, degrading or abusive treatment.

(3) A health care provider, home health agency or inpatient health care facility that tests an individual for HIV infection shall provide counseling about HIV and referral for appropriate health care and support services as necessary. A health care provider, home health agency or inpatient health care facility that treats an individual who has an HIV infection or acquired immunodeficiency syndrome shall develop and follow procedures that shall ensure continuity of care for the individual in the event that his or her condition exceeds the scope of licensure or certification of the provider, agency or facility.

(4) Any person violating sub. (2) is liable to the patient for actual damages and costs, plus exemplary damages of up to \$5,000 for an intentional violation. In determining the amount of exemplary damages, a court shall consider the ability of a health care provider who is an individual to pay exemplary damages.

History: 1989 a. 201; 1991 a. 32, 39, 160, 189, 269, 315; 1993 a. 27 ss. 326 to 331; Stats. 1993 s. 252.14; 1993 a. 105, 190, 252, 443; 1993 a. 490 s. 143; 1993 a. 491, 495; 1995 a. 27 ss. 6322, 9145 (1).

252.15 Restrictions on use of a test for HIV. (1) DEFINITIONS. In this section:

(ab) “Affected person” means an emergency medical technician, first responder, fire fighter, peace officer, correctional officer, person who is employed at a secured correctional facility, as defined in s. 938.02 (15m), or at a secured child caring institution, as defined in s. 938.02 (15g), state patrol officer, jailer or keeper of a jail or person designated with custodial authority by the jailer or keeper, health care provider, employe of a health care provider or staff member of a state crime laboratory.

(ad) “Correctional officer” has the meaning given in s. 301.28 (1).

(af) “Emergency medical technician” has the meaning given in s. 146.50 (1) (e).

(aj) “Fire fighter” has the meaning given in s. 102.475 (8) (b).

(am) “Health care professional” means a physician who is licensed under ch. 448 or a registered nurse or licensed practical nurse who is licensed under ch. 441.

(ar) “Health care provider” means any of the following:

1. A person or entity that is specified in s. 146.81 (1).
2. A home health agency.
3. An employe of the Mendota mental health institute or the Winnebago mental health institute.

(cm) “Home health agency” has the meaning given in s. 50.49 (1) (a).

(d) “Informed consent for testing or disclosure” means consent in writing on an informed consent for testing or disclosure form by a person to the administration of a test to him or her for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV or to the disclosure to another specified person of the results of a test administered to the person consenting.

(e) “Informed consent for testing or disclosure form” means a printed document on which a person may signify his or her informed consent for testing for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV or authorize the disclosure of any test results obtained.

(eg) “Relative” means a spouse, parent, grandparent, step-parent, brother, sister, first cousin, nephew or niece; or uncle or aunt within the 3rd degree of kinship as computed under s. 852.03 (2). This relationship may be by consanguinity or direct affinity.

(em) “Significantly exposed” means sustained a contact which carries a potential for a transmission of HIV, by one or more of the following:

1. Transmission, into a body orifice or onto mucous membrane, of blood; semen; vaginal secretions; cerebrospinal, synovial, pleural, peritoneal, pericardial or amniotic fluid; or other body fluid that is visibly contaminated with blood.

2. Exchange, during the accidental or intentional infliction of a penetrating wound, including a needle puncture, of blood; semen; vaginal secretions; cerebrospinal, synovial, pleural, peritoneal, pericardial or amniotic fluid; or other body fluid that is visibly contaminated with blood.

3. Exchange, into an eye, an open wound, an oozing lesion, or where a significant breakdown in the epidermal barrier has occurred, of blood; semen; vaginal secretions; cerebrospinal, synovial, pleural, peritoneal, pericardial or amniotic fluid; or other body fluid that is visibly contaminated with blood.

6. Other routes of exposure, defined as significant in rules promulgated by the department. The department in promulgating the rules shall consider all potential routes of transmission of HIV identified by the centers for disease control of the federal public health service.

(fm) “Universal precautions” means measures that a health care provider, an employe of a health care provider or other individual takes in accordance with recommendations of the federal centers for disease control for the health care provider, employe or other individual for prevention of HIV transmission in health-care settings.

(2) INFORMED CONSENT FOR TESTING OR DISCLOSURE. (a) No health care provider, blood bank, blood center or plasma center may subject a person to a test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV unless the subject of the test first provides informed consent for testing or disclosure as specified under par. (b), except that consent to testing is not required for any of the following:

1. Except as provided in subd. 1g., a health care provider who procures, processes, distributes or uses a human body part or human tissue donated as specified under s. 157.06 (6) (a) or (b)

shall, without obtaining consent to the testing, test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV in order to assure medical acceptability of the gift for the purpose intended. The health care provider shall use as a test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV a test or series of tests that the state epidemiologist finds medically significant and sufficiently reliable to detect the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV. If the validated test result of the donor from the test or series of tests performed is positive, the human body part or human tissue donated for use or proposed for donation may not be used.

- 1g. If a medical emergency, as determined by the attending physician of a potential donee and including a threat to the preservation of life of the potential donee, exists under which a human body part or human tissue that has been subjected to testing under subd. 1. is unavailable, the requirement of subd. 1. does not apply.

2. The department, a laboratory certified under 42 USC 263a or a health care provider, blood bank, blood center or plasma center may, for the purpose of research and without first obtaining written consent to the testing, subject any body fluids or tissues to a test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV if the testing is performed in a manner by which the identity of the test subject is not known and may not be retrieved by the researcher.

3. The medical director of a center for the developmentally disabled, as defined in s. 51.01 (3), or a mental health institute, as defined in s. 51.01 (12), may, without obtaining consent to the testing, subject a resident or patient of the center or institute to a test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV if he or she determines that the conduct of the resident or patient poses a significant risk of transmitting HIV to another resident or patient of the center or institute.

4. A health care provider may subject an individual to a test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV, without obtaining consent to the testing from the individual, if all of the following apply:

- a. The individual has been adjudicated incompetent under ch. 880, is under 14 years of age or is unable to give consent because he or she is unable to communicate due to a medical condition.

- b. The health care provider obtains consent for the testing from the individual’s guardian, if the individual is adjudicated incompetent under ch. 880; from the individual’s parent or guardian, if the individual is under 14 years of age; or from the individual’s closest living relative or another with whom the individual has a meaningful social and emotional relationship if the individual is not a minor nor adjudicated incompetent.

6. A health care professional acting under an order of the court under subd. 7. or s. 938.296 (4) or 968.38 (4) may, without first obtaining consent to the testing, subject an individual to a test or a series of tests to detect the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV. No sample used for laboratory test purposes under this subdivision may disclose the name of the test subject, and, notwithstanding sub. (4) (c), the test results may not be made part of the individual’s permanent medical record.

7. a. If all of the conditions under subd. 7. ai. to c. are met, an emergency medical technician, first responder, fire fighter, peace officer, correctional officer, person who is employed at a secured correctional facility, as defined in s. 938.02 (15m), or at a secured child caring institution, as defined in s. 938.02 (15g), state patrol officer, jailer or keeper of a jail or person designated with custodial authority by the jailer or keeper who, during the course of providing care or services to an individual; or a peace officer, correctional officer, state patrol officer, jailer or keeper of a jail or person designated with custodial authority by the jailer or keeper who, while searching or arresting an individual or while controlling or transferring an individual in custody; or a health care provider or an employe of a health care provider who, during

the course of providing care or treatment to an individual or handling or processing specimens of body fluids or tissues of an individual; or a staff member of a state crime laboratory who, during the course of handling or processing specimens of body fluids or tissues of an individual; is significantly exposed to the individual may subject the individual's blood to a test or a series of tests for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV and may receive disclosure of the results.

ai. The affected person uses universal precautions, if any, against significant exposure, and was using universal precautions at the time that he or she was significantly exposed, except in those emergency circumstances in which the time necessary for use of the universal precautions would endanger the life of the individual.

ak. A physician, based on information provided to the physician, determines and certifies in writing that the affected person has been significantly exposed. The certification shall accompany the request for testing and disclosure. If the affected person who is significantly exposed is a physician, he or she may not make this determination or certification. The information that is provided to a physician to document the occurrence of a significant exposure and the physician's certification that an affected person has been significantly exposed, under this subd. 7. ak., shall be provided on a report form that is developed by the department of commerce under s. 101.02 (19) (a) or on a report form that the department of commerce determines, under s. 101.02 (19) (b), is substantially equivalent to the report form that is developed under s. 101.02 (19) (a).

am. The affected person submits to a test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV, as soon as feasible or within a time period established by the department after consulting guidelines of the centers for disease control of the federal public health service, whichever is earlier.

ap. Except as provided in subd. 7. av. to c., the test is performed on blood that is drawn for a purpose other than testing for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV.

ar. The individual, if capable of consenting, has been given an opportunity to be tested with his or her consent and has not consented.

at. The individual has been informed that his or her blood may be tested for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV; that the test results may be disclosed to no one, including that individual, without his or her consent, except to the person who is certified to have been significantly exposed; that, if the person knows the identity of the individual, he or she may not disclose the identity to any other person except for the purpose of having the test or series of tests performed; and that a record may be kept of the test results only if the record does not reveal the individual's identity.

av. If blood that is specified in subd. 7. ap. is unavailable, the person who is certified under subd. 7. ak. to have been significantly exposed may request the district attorney to apply to the circuit court for his or her county to order the individual to submit to a test or a series of tests for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV and to disclose the results to that person. The person who is certified under subd. 7. ak. to have been significantly exposed shall accompany the request with the certification under subd. 7. ak.

b. Upon receipt of a request and certification under the requirements of this subdivision, a district attorney shall, as soon as possible so as to enable the court to provide timely notice, apply to the circuit court for his or her county to order the individual to submit to a test or a series of tests as specified in subd. 7. a., administered by a health care professional, and to disclose the results of the test or tests as specified in subd. 7. c.

c. The court shall set a time for a hearing on the matter under subd. 7. a. within 20 days after receipt of a request under subd. 7.

b. The court shall give the district attorney and the individual from whom a test is sought notice of the hearing at least 72 hours prior to the hearing. The individual may have counsel at the hearing, and counsel may examine and cross-examine witnesses. If the court finds probable cause to believe that the individual has significantly exposed the affected person, the court shall, except as provided in subd. 7. d., order the individual to submit to a test or a series of tests for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV. The court shall require the health care professional who performs the test or series of tests to refrain from disclosing the test results to the individual and to disclose the test results to the affected person and his or her health care professional. No sample used for laboratory test purposes under this subd. 7. c. may disclose the name of the test subject.

d. The court is not required to order the individual to submit to a test under subd. 7. c. if the court finds substantial reason relating to the life or health of the individual not to do so and states the reason on the record.

7m. The test results of an individual under subd. 7. may be disclosed only to the individual, if he or she so consents, to anyone authorized by the individual and to the affected person who was certified to have been significantly exposed. A record may be retained of the test results only if the record does not reveal the individual's identity. If the affected person knows the identity of the individual whose blood was tested, he or she may not disclose the identity to any other person except for the purpose of having the test or series of tests performed.

(am) 1. A health care provider who procures, processes, distributes or uses human sperm donated as specified under s. 157.06 (6) (a) or (b) shall, prior to the distribution or use and with informed consent under the requirements of par. (b), test the proposed donor for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV in order to assure medical acceptability of the gift for the purpose intended. The health care provider shall use as a test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV a test or series of tests that the state epidemiologist finds medically significant and sufficiently reliable under s. 252.13 (1r) to detect the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV. The health care provider shall test the donor initially and, if the initial test result is negative, shall perform a 2nd test on a date that is not less than 180 days from the date of the procurement of the sperm. No person may use the donated sperm until the health care provider has obtained the results of the 2nd test. If any validated test result of the donor for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV is positive, the sperm donated for use may not be used and, if donated, shall be destroyed.

2. a. A health care provider who procures, processes, distributes or uses human ova donated as specified under s. 157.06 (6) (a) or (b) shall, prior to the distribution or use and with informed consent under the requirements of par. (b), test the proposed donor for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV in order to assure medical acceptability of the gift for the purpose intended, only if the state epidemiologist finds that use of donated human ova provides a significant risk of transmitting HIV to a donee and if, notwithstanding ss. 227.01 (13) and 227.10 (1), the secretary of health and family services issues an order specifying the requirements for the testing.

b. A health care provider shall comply with any order issued under subd. 2. a.

(b) The health care provider, blood bank, blood center or plasma center that subjects a person to a test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV under pars. (a) and (am) shall, in instances under those paragraphs in which consent is required, provide the potential test subject with an informed consent form for testing or disclosure that shall contain the following information and on the form shall

obtain the potential test subject's signature or may, if the potential test subject has executed a power of attorney for health care instrument under ch. 155 and has been found to be incapacitated under s. 155.05 (2), instead obtain the signature of the health care agent:

1. The name of the potential test subject who is giving consent and whose test results may be disclosed and, if the potential test subject has executed a power of attorney for health care instrument under ch. 155 and has been found to be incapacitated under s. 155.05 (2), the name of the health care agent.

2. A statement of explanation to the potential test subject that the test results may be disclosed as specified under sub. (5) (a) and either a listing that duplicates the persons or circumstances specified under sub. (5) (a) 2. to 19. or a statement that the listing is available upon request.

3. Spaces specifically designated for the following purposes:

a. The signature of the potential test subject or, if the potential test subject has executed a power of attorney for health care instrument under ch. 155 and has been found to be incapacitated under s. 155.05 (2), of the health care agent, providing informed consent for the testing and the date on which the consent is signed.

b. The name of a person to whom the potential test subject or, if the potential test subject has executed a power of attorney for health care instrument under ch. 155 and has been found to be incapacitated under s. 155.05 (2), the health care agent, authorizes that disclosure of test results be made, if any, the date on which the consent to disclosure is signed, and the time period during which the consent to disclosure is effective.

(bm) The health care provider that subjects a person to a test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV under par. (a) 3. shall provide the test subject and the test subject's guardian, if the test subject is incompetent under ch. 880, with all of the following information:

1. A statement of explanation concerning the test that was performed, the date of performance of the test and the test results.

2. A statement of explanation that the test results may be disclosed as specified under sub. (5) (a) and either a listing that duplicates the persons or circumstances specified under sub. (5) (a) 2. to 18. or a statement that the listing is available upon request.

(3) WRITTEN CONSENT TO DISCLOSURE. A person who receives a test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV under sub. (2) (b) or, if the person has executed a power of attorney for health care instrument under ch. 155 and has been found to be incapacitated under s. 155.05 (2), the health care agent may authorize in writing a health care provider, blood bank, blood center or plasma center to disclose the person's test results to anyone at any time subsequent to providing informed consent for disclosure under sub. (2) (b) and a record of this consent shall be maintained by the health care provider, blood bank, blood center or plasma center so authorized.

(4) RECORD MAINTENANCE. A health care provider, blood bank, blood center or plasma center that obtains from a person a specimen of body fluids or tissues for the purpose of testing for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV shall:

(a) Obtain from the subject informed consent for testing or disclosure, as provided under sub. (2).

(b) Maintain a record of the consent received under par. (a).

(c) Maintain a record of the test results obtained. A record that is made under the circumstances described in sub. (2) (a) 7m. may not reveal the identity of the test subject.

(5) CONFIDENTIALITY OF TEST. (a) An individual who is the subject of a test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV or the individual's health care agent, if the individual has executed a power of attorney for health care instrument under ch. 155 and has been found to be incapacitated under s. 155.05 (2), may disclose the results of the individual's test to anyone. A person who is neither the individual nor the individual's health care agent may not, unless he or she is

specifically authorized by the individual to do so, disclose the individual's test results except to the following persons or under the following circumstances:

1. To the subject of the test and, if the test subject has executed a power of attorney for health care instrument under ch. 155 and has been found to be incapacitated under s. 155.05 (2), the health care agent.

2. To a health care provider who provides care to the test subject, including those instances in which a health care provider provides emergency care to the subject.

3. To an agent or employe of a health care provider under subd. 2. who prepares or stores patient health care records, as defined in s. 146.81 (4), for the purposes of preparation or storage of those records; provides patient care; or handles or processes specimens of body fluids or tissues.

4. To a blood bank, blood center or plasma center that subjects a person to a test under sub. (2) (a), for any of the following purposes:

a. Determining the medical acceptability of blood or plasma secured from the test subject.

b. Notifying the test subject of the test results.

c. Investigating HIV infections in blood or plasma.

5. To a health care provider who procures, processes, distributes or uses a human body part donated as specified under s. 157.06 (6) (a) or (b), for the purpose of assuring medical acceptability of the gift for the purpose intended.

6. To the state epidemiologist or his or her designee, for the purpose of providing epidemiologic surveillance or investigation or control of communicable disease.

7. To a funeral director, as defined under s. 445.01 (5) or to other persons who prepare the body of a decedent for burial or other disposition or to a person who performs an autopsy or assists in performing an autopsy.

8. To health care facility staff committees or accreditation or health care services review organizations for the purposes of conducting program monitoring and evaluation and health care services reviews.

9. Under a lawful order of a court of record except as provided under s. 901.05.

10. To a person who conducts research, for the purpose of research, if the researcher:

a. Is affiliated with a health care provider under subd. 3.

b. Has obtained permission to perform the research from an institutional review board.

c. Provides written assurance to the person disclosing the test results that use of the information requested is only for the purpose under which it is provided to the researcher, the information will not be released to a person not connected with the study, and the final research product will not reveal information that may identify the test subject unless the researcher has first received informed consent for disclosure from the test subject.

11. To a person, including a person exempted from civil liability under the conditions specified under s. 895.48, who renders to the victim of an emergency or accident emergency care during the course of which the emergency caregiver is significantly exposed to the emergency or accident victim, if a physician, based on information provided to the physician, determines and certifies in writing that the emergency caregiver has been significantly exposed and if the certification accompanies the request for disclosure.

12. To a coroner, medical examiner or an appointed assistant to a coroner or medical examiner, if one or more of the following conditions exist:

a. The possible HIV-infected status is relevant to the cause of death of a person whose death is under direct investigation by the coroner, medical examiner or appointed assistant.

b. The coroner, medical examiner or appointed assistant is significantly exposed to a person whose death is under direct

investigation by the coroner, medical examiner or appointed assistant, if a physician, based on information provided to the physician, determines and certifies in writing that the coroner, medical examiner or appointed assistant has been significantly exposed and if the certification accompanies the request for disclosure.

13. To a sheriff, jailer or keeper of a prison, jail or house of correction or a person designated with custodial authority by the sheriff, jailer or keeper, for whom disclosure is necessitated in order to permit the assigning of a private cell to a prisoner who has a positive test result.

14. If the test results of a test administered to an individual are positive and the individual is deceased, by the individual's attending physician, to persons, if known to the physician, with whom the individual has had sexual contact or has shared intravenous drug use paraphernalia.

15. To anyone who provides consent for the testing under sub. (2) (a) 4. b., except that disclosure may be made under this subdivision only during a period in which the test subject is adjudicated incompetent under ch. 880, is under 14 years of age or is unable to communicate due to a medical condition.

17. To an alleged victim or victim, to a health care professional, upon request as specified in s. 938.296 (4) (e) or 968.38 (4) (c), who provides care to the alleged victim or victim and, if the alleged victim or victim is a minor, to the parent or guardian of the alleged victim or victim, under s. 938.296 (4) or 968.38 (4).

18. To an affected person, under the requirements of sub. (2) (a) 7.

19. If the test was administered to a child who has been placed in a foster home, treatment foster home, group home or child caring institution, including a placement under s. 48.205, 48.21, 938.205 or 938.21 or for whom placement in a foster home, treatment foster home, group home or child caring institution is recommended under s. 48.33 (4), 48.425 (1) (g), 48.837 (4) (c) or 938.33 (3) or (4), to an agency directed by a court to prepare a court report under s. 48.33 (1), 48.424 (4) (b), 48.425 (3), 48.831 (2), 48.837 (4) (c) or 938.33 (1), to an agency responsible for preparing a court report under s. 48.365 (2g), 48.425 (1), 48.831 (2), 48.837 (4) (c) or 938.365 (2g), to an agency responsible for preparing a permanency plan under s. 48.355 (2e), 48.38, 48.43 (1) (c) or (5) (c), 48.63 (4), 48.831 (4) (e), 938.355 (2e) or 938.38 regarding the child or to an agency that placed the child or arranged for the placement of the child in any of those placements and, by any of those agencies, to any other of those agencies and, by the agency that placed the child or arranged for the placement of the child in any of those placements, to the child's foster parent or treatment foster parent or the operator of the group home or child caring institution in which the child is placed, as provided in s. 48.371 or 938.371.

(b) A private pay patient may deny access to disclosure of his or her test results granted under par. (a) 10. if he or she annually submits to the maintainer of his or her test results under sub. (4) (c) a signed, written request that denial be made.

(5m) AUTOPSIES; TESTING OF CERTAIN CORPSES. Notwithstanding s. 157.05, a corpse may be subjected to a test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV and the test results disclosed to the person who has been significantly exposed under any of the following conditions:

(a) If a person, including a person exempted from civil liability under the conditions specified under s. 895.48, who renders to the victim of an emergency or accident emergency care during the course of which the emergency caregiver is significantly exposed to the emergency or accident victim and the emergency or accident victim subsequently dies prior to testing for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV, and if a physician, based on information provided to the physician, determines and certifies in writing that the emergency caregiver has been significantly exposed and if the certification accompanies the request for testing and disclosure. Testing of a

corpse under this paragraph shall be ordered by the coroner, medical examiner or physician who certifies the victim's cause of death under s. 69.18 (2) (b), (c) or (d).

(b) If a funeral director, coroner, medical examiner or appointed assistant to a coroner or medical examiner who prepares the corpse of a decedent for burial or other disposition or a person who performs an autopsy or assists in performing an autopsy is significantly exposed to the corpse, and if a physician, based on information provided to the physician, determines and certifies in writing that the funeral director, coroner, medical examiner or appointed assistant has been significantly exposed and if the certification accompanies the request for testing and disclosure. Testing of a corpse under this paragraph shall be ordered by the attending physician of the funeral director, coroner, medical examiner or appointed assistant who is so exposed.

(c) If a health care provider or an agent or employe of a health care provider is significantly exposed to the corpse or to a patient who dies subsequent to the exposure and prior to testing for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV, and if a physician who is not the health care provider, based on information provided to the physician, determines and certifies in writing that the health care provider, agent or employe has been significantly exposed and if the certification accompanies the request for testing and disclosure. Testing of a corpse under this paragraph shall be ordered by the physician who certifies that the significant exposure has occurred.

(5r) SALE OF TESTS WITHOUT APPROVAL PROHIBITED. No person may sell or offer to sell in this state a test or test kit to detect the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV for self-use by an individual unless the test or test kit is first approved by the state epidemiologist. In reviewing a test or test kit under this subsection, the state epidemiologist shall consider and weigh the benefits, if any, to the public health of the test or test kit against the risks, if any, to the public health of the test or test kit.

(6) EXPANDED DISCLOSURE OF TEST RESULTS PROHIBITED. No person to whom the results of a test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV have been disclosed under sub. (5) (a) or (5m) may disclose the test results except as authorized under sub. (5) (a) or (5m).

(7) REPORTING OF POSITIVE TEST RESULTS. (a) Notwithstanding ss. 227.01 (13) and 227.10 (1), for the purposes of this subsection, the state epidemiologist shall determine, based on the preponderance of available scientific evidence, the procedures necessary in this state to obtain a validated test result and the secretary shall so declare under s. 250.04 (1) or (2) (a). The state epidemiologist shall revise this determination if, in his or her opinion, changed available scientific evidence warrants a revision, and the secretary shall declare the revision under s. 250.04 (1) or (2) (a).

(b) If a positive, validated test result is obtained from a test subject, the health care provider, blood bank, blood center or plasma center that maintains a record of the test results under sub. (4) (c) shall report to the state epidemiologist the following information:

1. The name and address of the health care provider, blood bank, blood center or plasma center reporting.
2. The name and address of the subject's health care provider, if known.
3. The name, address, telephone number, age or date of birth, race and ethnicity, sex and county of residence of the test subject, if known.
4. The date on which the test was performed.
5. The test result.
6. Any other medical or epidemiological information required by the state epidemiologist for the purpose of exercising surveillance, control and prevention of HIV infections.

(c) A report made under par. (b) may not include any of the following:

1. Information with respect to the sexual orientation of the test subject.
2. The identity of persons with whom the test subject may have had sexual contact.

(d) This subsection does not apply to the reporting of information under s. 252.05 with respect to persons for whom a diagnosis of acquired immunodeficiency syndrome has been made.

(8) CIVIL LIABILITY. (a) Any person violating sub. (2), (5) (a), (5m), (6) or (7) (c) is liable to the subject of the test for actual damages and costs, plus exemplary damages of up to \$1,000 for a negligent violation and up to \$5,000 for an intentional violation.

(b) The plaintiff in an action under par. (a) has the burden of proving by a preponderance of the evidence that a violation occurred under sub. (2), (5) (a), (5m), (6) or (7) (c). A conviction under sub. (2), (5) (a), (5m), (6) or (7) (c) is not a condition precedent to bringing an action under par. (a).

(9) CRIMINAL PENALTY. Whoever intentionally discloses the results of a blood test in violation of sub. (2) (a) 7m., (5) (a) or (5m) and thereby causes bodily harm or psychological harm to the subject of the test may be fined not more than \$10,000 or imprisoned not more than 9 months or both.

History: 1985 a. 29, 73, 120; 1987 a. 70 ss. 13 to 27, 36; 1987 a. 403 ss. 136, 256; 1989 a. 200; 1989 a. 201 ss. 11 to 25, 36; 1989 a. 298, 359; 1991 a. 269; 1993 a. 16 s. 2567; 1993 a. 27 ss. 332, 334, 337, 340, 342; Stats. 1993 s. 252.15; 1993 a. 32, 183, 190, 252, 395, 491; 1995 a. 27 ss. 6323, 9116 (5), 9126 (19); 1995 a. 77, 275.

No claim for violation of (2) was stated where the defendants neither conducted HIV tests nor were authorized recipients of the test results. *Hillman v. Columbia County*, 164 W (2d) 376, 474 NW (2d) 913 (Ct. App. 1991).

This section does not prevent a court acting in equity from ordering an HIV test where this section does not apply. *Syring v. Tucker*, 174 W (2d) 787, 498 NW (2d) 370 (1993).

Confidentiality of Medical Records. *Meili*. Wis. Law. Feb. 1995.

252.16 Continuation coverage premium subsidies.

(1) DEFINITIONS. In this section:

(a) “Continuation coverage” means coverage under a group health plan that is available under s. 632.897, 29 USC 1161 to 1168 or 42 USC 300bb–1 to 300bb–8, to a group member upon termination of the group member’s employment or a reduction in his or her hours.

(b) “Group health plan” means an insurance policy or a partially or wholly uninsured plan or program, that provides hospital, medical or other health coverage to members of a group.

(c) “Residence” means the concurrence of physical presence with intent to remain in a place of fixed habitation. Physical presence is prima facie evidence of intent to remain.

(2) SUBSIDY PROGRAM. From the appropriation under s. 20.435 (1) (am), the department shall distribute funding in each fiscal year to subsidize the premium costs under s. 252.17 (2) and, under this subsection, the premium costs for continuation coverage available to an individual who has HIV infection and who is unable to continue his or her employment or must reduce his or her hours because of an illness or medical condition arising from or related to HIV infection.

(3) ELIGIBILITY. An individual is eligible to receive a subsidy in an amount determined under sub. (4), if the department determines that the individual meets all of the following criteria:

- (a) Has residence in this state.
- (b) Has a family income, as defined by rule under sub. (6), that does not exceed 200% of the federal poverty line, as defined under 42 USC 9902 (2), for a family the size of the individual’s family.
- (c) Has submitted to the department a certification from a physician, as defined in s. 448.01 (5), of all of the following:
 1. That the individual has an infection that is an HIV infection.
 2. That the individual’s employment has terminated or his or her hours have been reduced, because of an illness or medical condition arising from or related to the individual’s HIV infection.
- (d) Is eligible for continuation coverage.
- (e) Authorizes the department, in writing, to do all of the following:

1. Contact the individual’s former employer or the administrator of the group health plan under which the individual is covered, to verify the individual’s eligibility for continuation coverage and the premium and any other conditions of coverage, to make premium payments as provided in sub. (4) and for other purposes related to the administration of this section.

2. Make any necessary disclosure to the individual’s former employer or the administrator of the group health plan under which the individual is covered regarding the individual’s HIV status.

(f) Is not covered by a group health plan other than any of the following:

1. The group health plan under which the individual is eligible for continuation coverage.

2. A group health plan that offers a substantial reduction in covered health care services from the group health plan under subd. 1.

(g) Is not covered by an individual health insurance policy other than an individual health insurance policy that offers a substantial reduction in covered health care services from the group health plan under par. (f) 1.

(h) Is not eligible for medicare under 42 USC 1395 to 1395zz.

(4) AMOUNT AND PERIOD OF SUBSIDY. (a) Except as provided in pars. (b) and (c), if an individual satisfies sub. (3), the department shall pay the full amount of each premium payment for continuation coverage that is due from the individual under s. 632.897 (2) (d), 29 USC 1162 (3) or 42 USC 300bb–2 (3), whichever is applicable, on or after the date on which the individual becomes eligible for a subsidy under sub. (3). The department may not refuse to pay the full amount of each premium payment because the continuation coverage that is available to the individual who satisfies sub. (3) includes coverage of the individual’s spouse and dependents. Except as provided in par. (b), the department shall terminate the payments under this section when the individual’s continuation coverage ceases, when the individual no longer satisfies sub. (3) or upon the expiration of 29 months after the continuation coverage began, whichever occurs first. The department may not make payments under this section for premiums for a conversion policy or plan that is available to an individual under s. 632.897 (4) or (6), 29 USC 1162 (5) or 42 USC 300bb–2 (5).

(b) The obligation of the department to make payments under this section is subject to the availability of funds in the appropriation under s. 20.435 (1) (am).

(c) The amount paid under par. (a) may not exceed the applicable premium, as defined in 29 USC 1164 or 42 USC 300bb–4, as amended to April 7, 1986.

(5) APPLICATION PROCESS. The department may establish, by rule, a procedure under which an individual who does not satisfy sub. (3) (b), (c) 2. or (d) may submit to the department an application for a premium subsidy under this section that the department shall hold until the individual satisfies each requirement of sub. (3), if the department determines that the procedure will assist the department to make premium payments in a timely manner once the individual satisfies each requirement of sub. (3). If an application is submitted by an employed individual under a procedure established by rule under this subsection, the department may not contact the individual’s employer or the administrator of the group health plan under which the individual is covered, unless the individual authorizes the department, in writing, to make that contact and to make any necessary disclosure to the individual’s employer or the administrator of the group health plan under which the individual is covered regarding the individual’s HIV status.

(6) RULES. The department shall promulgate rules that do all of the following:

- (a) Define family income for purposes of sub. (3) (b).
- (b) Establish a procedure for making payments under this section that ensures that the payments are actually used to pay pre-

miums for continuation coverage available to individuals who satisfy sub. (3).

History: 1989 a. 336; 1991 a. 269; 1993 a. 16 ss. 2587, 2588; 1993 a. 27 ss. 386 to 389; Stats. 1993 s. 252.16; 1993 a. 491; 1995 a. 27.

252.17 Medical leave premium subsidies. (1) DEFINITIONS. In this section:

(a) “Group health plan” has the meaning given in s. 252.16 (1) (b).

(d) “Medical leave” means medical leave under s. 103.10.

(e) “Residence” has the meaning given in s. 252.16 (1) (e).

(2) SUBSIDY PROGRAM. The department shall establish and administer a program to subsidize, from the appropriation under s. 20.435 (1) (am), as provided in s. 252.16 (2), the premium costs for coverage under a group health plan that are paid by an individual who has HIV infection and who is on unpaid medical leave from his or her employment because of an illness or medical condition arising from or related to HIV infection.

(3) ELIGIBILITY. An individual is eligible to receive a subsidy in an amount determined under sub. (4), if the department determines that the individual meets all of the following criteria:

(a) Has residence in this state.

(b) Has a family income, as defined by rule under sub. (6), that does not exceed 200% of the federal poverty line, as defined under 42 USC 9902 (2), for a family the size of the individual’s family.

(c) Has submitted to the department a certification from a physician, as defined in s. 448.01 (5), of all of the following:

1. That the individual has an infection that is an HIV infection.

2. That the individual is on unpaid medical leave from his or her employment because of an illness or medical condition arising from or related to the individual’s HIV infection or because of medical treatment or supervision for such an illness or medical condition.

(d) Is covered under a group health plan through his or her employment and pays part or all of the premium for that coverage, including any premium for coverage of the individual’s spouse and dependents.

(e) Authorizes the department, in writing, to do all of the following:

1. Contact the individual’s employer or the administrator of the group health plan under which the individual is covered, to verify the individual’s medical leave, group health plan coverage and the premium and any other conditions of coverage, to make premium payments as provided in sub. (4) and for other purposes related to the administration of this section.

2. Make any necessary disclosure to the individual’s employer or the administrator of the group health plan under which the individual is covered regarding the individual’s HIV status.

(f) Is not covered by a group health plan other than any of the following:

1. The group health plan under par. (d).

2. A group health plan that offers a substantial reduction in covered health care services from the group health plan under subd. 1.

(g) Is not covered by an individual health insurance policy other than an individual health insurance policy that offers a substantial reduction in covered health care services from the group health plan under par. (d).

(h) Is not eligible for medicare under 42 USC 1395 to 1395zz.

(i) Does not have escrowed under s. 103.10 (9) (c) an amount sufficient to pay the individual’s required contribution to his or her premium payments.

(4) AMOUNT AND PERIOD OF SUBSIDY. (a) Except as provided in pars. (b) and (c), if an individual satisfies sub. (3), the department shall pay the amount of each premium payment for coverage under the group health plan under sub. (3) (d) that is due from the individual on or after the date on which the individual becomes

eligible for a subsidy under sub. (3). The department may not refuse to pay the full amount of the individual’s contribution to each premium payment because the coverage that is provided to the individual who satisfies sub. (3) includes coverage of the individual’s spouse and dependents. Except as provided in par. (b), the department shall terminate the payments under this section when the individual’s unpaid medical leave ends, when the individual no longer satisfies sub. (3) or upon the expiration of 29 months after the unpaid medical leave began, whichever occurs first.

(b) The obligation of the department to make payments under this section is subject to the availability of funds in the appropriation under s. 20.435 (1) (am).

(c) If an individual who satisfies sub. (3) has an amount escrowed under s. 103.10 (9) (c) that is insufficient to pay the individual’s required contribution to his or her premium payments, the amount paid under par. (a) may not exceed the individual’s required contribution for the duration of the payments under this section as determined under par. (a) minus the amount escrowed.

(5) APPLICATION PROCESS. The department may establish, by rule, a procedure under which an individual who does not satisfy sub. (3) (b) or (c) 2. may submit to the department an application for a premium subsidy under this section that the department shall hold until the individual satisfies each requirement of sub. (3), if the department determines that the procedure will assist the department to make premium payments in a timely manner once the individual satisfies each requirement of sub. (3). If an application is submitted by an individual under a procedure established by rule under this subsection, the department may not contact the individual’s employer or the administrator of the group health plan under which the individual is covered, unless the individual authorizes the department, in writing, to make that contact and to make any necessary disclosure to the individual’s employer or the administrator of the group health plan under which the individual is covered regarding the individual’s HIV status.

(6) RULES. The department shall promulgate rules that do all of the following:

(a) Define family income for purposes of sub. (3) (b).

(b) Establish a procedure for making payments under this section that ensures that the payments are actually used to pay premiums for group health plan coverage available to individuals who satisfy sub. (3).

History: 1991 a. 269; 1993 a. 16 ss. 2589, 2590; 1993 a. 27 ss. 390 to 394; Stats. 1993 s. 252.17; 1993 a. 491.

252.18 Handling foods. No person in charge of any public eating place or other establishment where food products to be consumed by others are handled may knowingly employ any person handling food products who has a disease in a form that is communicable by food handling. If required by the local health officer or any officer of the department for the purposes of an investigation, any person who is employed in the handling of foods or is suspected of having a disease in a form that is communicable by food handling shall submit to an examination by the officer or by a physician designated by the officer. The expense of the examination, if any, shall be paid by the person examined. Any person knowingly infected with a disease in a form that is communicable by food handling who handles food products to be consumed by others and any persons knowingly employing or permitting such a person to handle food products to be consumed by others shall be punished as provided by s. 252.25.

History: 1981 c. 291; 1993 a. 27 s. 298; Stats. 1993 s. 252.18.

252.19 Communicable diseases; suspected cases; protection of public. No person who is knowingly infected with a communicable disease may wilfully violate the recommendations of the local health officer or subject others to danger of contracting the disease. No person may knowingly and wilfully take, aid in taking, advise or cause to be taken, a person who is infected or is suspected of being infected with a communicable disease into any public place or conveyance where the infected

person would expose any other person to danger of contracting the disease.

History: 1981 c. 291; 1993 a. 27 s. 299; Stats. 1993 s. 252.19.

252.21 Communicable diseases; schools; duties of teachers, parents, officers. (1) If a teacher, school nurse or principal of any school or day care center knows or suspects that a communicable disease is present in the school or center, he or she shall at once notify the local health officer.

(6) Any teacher, school nurse or principal may send home pupils who are suspected of having a communicable disease or any other disease the department specifies by rule. Any teacher, school nurse or principal who sends a pupil home shall immediately notify the parents of the pupil of the action and the reasons for the action. A teacher who sends a pupil home shall also notify the principal of the action and the reasons for the action.

History: 1981 c. 291; 1993 a. 27 s. 301; Stats. 1993 s. 252.21.

252.23 Regulation of tattooists. (1) **DEFINITIONS.** In this section:

(a) “Tattoo” has the meaning given in s. 948.70 (1) (b).

(b) “Tattoo establishment” means the premises where a tattooist performs tattoos.

(c) “Tattooist” means a person who tattoos another.

(2) **DEPARTMENT; DUTY.** The department shall provide uniform, statewide licensing and regulation of tattooists and uniform, statewide licensing and regulation of tattoo establishments under this section. The department shall inspect a tattoo establishment once before issuing a license for the tattoo establishment under this section and may make additional inspections that the department determines are necessary.

(3) **LICENSE REQUIRED.** Except as provided in sub. (5), no person may tattoo or attempt to tattoo another, designate or represent himself or herself as a tattooist or use or assume the title “tattooist” and no tattoo establishment may be operated unless the person and the establishment are licensed by the department under this section or by a local health department that is designated as the department’s agent under s. 252.245.

(4) **RULE MAKING.** The department shall promulgate all of the following as rules:

(a) Standards and procedures, including fee payment to offset the cost of licensing tattooists and tattoo establishments, for the annual issuance of licenses as tattooists or as tattoo establishments to applicants under this section.

(b) Standards for the performance of tattoos by a licensed tattooist and for the maintenance of a licensed tattoo establishment, which will promote safe and adequate care and treatment for individuals who receive tattoos and eliminate or greatly reduce the danger of exposure by these individuals to communicable disease or infection.

(5) **EXCEPTION.** This section does not apply to a dentist who is licensed under s. 447.03 (1) or to a physician who tattoos or offers to tattoo a person in the course of the dentist’s or physician’s professional practice.

History: 1995 a. 468.

252.24 Regulation of body piercing and body-piercing establishments. (1) **DEFINITIONS.** In this section:

(a) “Body piercer” means a person who performs body piercing on another.

(b) “Body piercing” means perforating any human body part or human tissue, except an ear, and placing a foreign object in the perforation in order to prevent the perforation from closing.

(c) “Body-piercing establishment” means the premises where a body piercer performs body piercing.

(2) **DEPARTMENT; DUTY.** The department shall provide uniform, statewide licensing and regulation of body piercers and uniform, statewide licensing and regulation of body-piercing establishments under this section. The department shall inspect a body-piercing establishment once before issuing a license for the

body-piercing establishment under this section and may make additional inspections that the department determines are necessary.

(3) **LICENSE REQUIRED.** Except as provided in sub. (5), no person may pierce the body of or attempt to pierce the body of another, designate or represent himself or herself as a body piercer or use or assume the title “body piercer” unless the person is licensed under this section.

(4) **RULE MAKING.** The department shall promulgate all of the following as rules:

(a) Standards and procedures, including fee payment to offset the cost of licensing body piercers and body-piercing establishments, for the annual issuance of licenses as body piercers or as body-piercing establishments to applicants under this section.

(b) Standards for the performance of body piercing by a licensed body piercer and for the maintenance of a licensed body-piercing establishment, which will promote safe and adequate care and treatment for individuals who receive body piercing and eliminate or greatly reduce the danger of exposure by these individuals to communicable disease or infection.

(5) **EXCEPTION.** This section does not apply to a dentist who is licensed under s. 447.03 (1) or to a physician who pierces the body of or offers to pierce the body of a person in the course of the dentist’s or physician’s professional practice.

History: 1995 a. 468.

252.245 Agent status for local health departments.

(1) In the administration and enforcement of ss. 252.23 and 252.24, the department may enter into a written agreement with a local health department with a jurisdictional area that has a population greater than 5,000, which designates the local health department as the department’s agent in issuing licenses to and making investigations or inspections of tattooists and tattoo establishments and body piercers and body-piercing establishments. In a jurisdictional area of a local health department without agent status, the department of health and family services may issue licenses, collect license fees established by rule under ss. 252.23 (4) (a) and 252.24 (4) (a) and make investigations or inspections of tattooists and tattoo establishments and body piercers and body-piercing establishments. If the department designates a local health department as its agent, the department or local health department may require no license for the same operations other than the license issued by the local health department under this subsection. If the designation is made and the services are furnished, the department shall reimburse the local health department furnishing the service at the rate of 80% of the net license fee per license per year issued in the jurisdictional area.

(2) A local health department designated as the department’s agent under this section shall meet standards promulgated under ss. 252.23 (4) (a) and 252.24 (4) (a). The department shall annually evaluate the licensing, investigation and inspection program of each local health department granted agent status. If, at any time, a local health department designated as the department’s agent fails to meet the standards, the department of health and family services may revoke its agent status.

(3) The department shall provide education and training to agents designated under this section to ensure uniformity in the enforcement of s. 252.23 or 252.24 and rules promulgated under s. 252.23 or 252.24.

(4) Except as provided in sub. (4m), a local health department designated as the department’s agent under this section shall establish and collect the license fee for each tattooist or tattoo establishment and for each body piercer or body-piercing establishment. The local health department may establish separate fees for preinspections of new tattoo or body-piercing establishments, for preinspections of existing establishments for which a person intends to be the new operator or for the issuance of duplicate licenses. No fee may exceed the local health department’s reasonable costs of issuing licenses to, making investigations and inspections of, and providing education, training and technical

assistance to the tattooists and tattoo establishments or body piercers and body-piercing establishments, plus the state fee established under sub. (9).

(4m) A local health department designated as the department's agent under this section may contract with the department of health and family services for the department of health and family services to collect fees and issue licenses under s. 252.23 or 252.24. The department shall collect from the local health department the actual and reasonable cost of providing the services.

(5) If, under this section, a local health department becomes an agent or its agent status is discontinued during a licensee's license year, the department of health and family services and the local health department shall divide any license fee paid by the licensee for that license year according to the proportions of the license year occurring before and after the local health department is designated as an agent or the agent status is discontinued. No additional fee may be required during the license year due to the change in agent status.

(6) A village, city or county may enact ordinances and a local board of health may adopt regulations regarding the licensees and premises for which the local health department is the designated agent under this section, which are stricter than s. 252.23 or 252.24 or rules promulgated by the department of health and family services under s. 252.23 or 252.24. No such provision may conflict with s. 252.23 or 252.24 or with department rules.

(7) This section does not limit the authority of the department to inspect establishments in jurisdictional areas of local health departments that are designated as agents if it inspects in response to an emergency, for the purpose of monitoring and evaluating the

local health department's licensing, inspection and enforcement program or at the request of the local health department.

(8) The department shall hold a hearing under ch. 227 if, in lieu of proceeding under ch. 68, any interested person in the jurisdictional area of a local health department that is designated as the department's agent under this section appeals to the department of health and family services alleging that a license fee for a tattooist or tattooist establishment or for a body piercer or body-piercing establishment exceeds the license issuer's reasonable costs of issuing licenses to, making investigations and inspections of, and providing education, training and technical assistance to the tattooist or tattooist establishment or to the body piercer or body-piercing establishment.

(9) The department shall promulgate rules establishing state fees for its costs related to setting standards under ss. 252.23 and 252.24 and monitoring and evaluating the activities of, and providing education and training to, agent local health departments. Agent local health departments shall include the state fees in the license fees established under sub. (4), collect the state fees and reimburse the department for the state fees collected. For tattooists or tattoo establishments and for body piercers or body-piercing establishments, the state fee may not exceed 20% of the license fees established under s. 252.23 (4) (a) or 252.24 (4) (a).

History: 1995 a. 468.

252.25 Violation of law relating to health. Any person who wilfully violates or obstructs the execution of any state statute or rule, county, city or village ordinance or departmental order under this chapter and relating to the public health, for which no other penalty is prescribed, shall be imprisoned for not more than 30 days or fined not more than \$500 or both.

History: 1981 c. 291; 1993 a. 27 s. 300; Stats. 1993 s. 252.25.