

SUMMARY OF GEORGIA HIV and STD LAWS

Confidentiality of HIV/AIDS records

- Georgia statutory law [**O.C.G.A. § 31-22-9.1**] defines AIDS Confidential Information (ACI) and makes the confidentiality requirements for the disclosure of ACI more stringent than those for other medical records. A patient's written consent is required to disclose ACI unless the disclosure is otherwise authorized or required by law. See, <http://health.state.ga.us/programs/stdhiv/hivguidelines.asp>
- **O.C.G.A. § 24-9-40.1 AIDS confidential information.** ACI as defined in § 31-22-9.1 and disclosed or discovered within the patient-physician relationship shall be confidential and shall not be disclosed except as otherwise provided in § 24-9-47.
- **O.C.G.A. § 24-9-47 Disclosure of AIDS confidential information.** (1) No person or legal entity which receives AIDS confidential information pursuant to this Code section or which is responsible for recording, reporting, or maintaining AIDS confidential information shall: (A) Intentionally or knowingly disclose that information to another person or legal entity; or (B) Be compelled by subpoena, court order, or other judicial process to disclose that information to another person or legal entity
- See also **HIPAA Privacy Rules**, 45 CFR 164.501, <http://www.hhs.gov/ocr/hipaa/>

Confidentiality of Medical Records [including sexually transmitted disease records]

- **HIPAA** [45 CFR 164.501] preempts any conflicting state law unless that law affords the patient a greater degree of confidentiality than HIPAA. See, <http://www.hhs.gov/ocr/hipaa/>.
- See generally, **O.C.G.A.** Chapter 31-33 regarding Health Records and Chapter 31-17 regarding venereal diseases.

HIV and/or HBV Infected Healthcare workers

- **O.C.G.A. § 43-34-37 Denial of licenses - discipline of physicians.** Unprofessional conduct for a physician includes failing to conform to the recommendation of the CDC for preventing transmission of the HIV, Hepatitis B and C Virus and Tuberculosis to patients during exposure-prone invasive procedures.
 - See, Recommendations for Preventing Transmission of HIV and HBV to Patients during Exposure Prone Invasive Procedures, 40 MMWR. No. RR-8, 5 (1991). *HCWs who are infected with HIV should not perform exposure-prone procedures unless they have sought counsel from an expert review panel [ERP] and been*

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advised under what circumstances, if any, they may continue to perform these procedures.

- **Georgia Dep't of Human Resources, HIV and HBV Policy**, Chapter III, HIV Related Legal Issues and Chapter VI, Mngm't of HIV and HBV Infected HCW's.

Healthcare workers and Occupational Exposures

- **O.C.G.A. § 31-12-13** Blood borne pathogen standard governing occupational exposure of public employees.
- **Georgia Dep't of Human Resources, HIV and HBV Policy**, Chapter I, Blood borne Pathogens, Infection Control Guidelines and Exposure Control Plan.

Partner Notification

- **HIV O.C.G.A. § 24-9-47 Disclosure of AIDS confidential information.** (g) When the patient of a physician has been determined to be infected with HIV and that patient's physician reasonably believes that the spouse or sexual partner or any child of the patient, spouse, or sexual partner is a person at risk of being infected with HIV by that patient, the physician may disclose to that spouse, sexual partner, or child that the patient has been determined to be infected with HIV, after first attempting to notify the patient that such disclosure is going to be made.

STD and HIV testing

- **O.C.G.A. § 31-17-3 Powers of department agents or county boards of health.** The authorized agent or agents of the Department of Human Resources and county boards of health are directed and empowered, when in their judgment it is necessary to protect the public health, to make examination of persons infected or suspected of being infected with venereal disease; to require persons infected with venereal disease to report for treatment to a physician licensed to practice medicine...
- **O.C.G.A. § 31-17-4 Standard serologic tests for pregnant women.** The department may require every pregnant woman to submit to a standard serologic test,
- **O.C.G.A. § 31-17-4.2 "Georgia HIV Pregnancy Screening Act of 2007."** Every physician and health care provider who assumes responsibility for the prenatal care of pregnant women during gestation and at delivery shall be required to test pregnant women for HIV except in cases where the woman refuses the testing.
- **O.C.G.A. § 31-22-9.1(a)(6)** Georgia law requires that all individuals be counseled before and after being tested for HIV.

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- **O.C.G.A. § 31-17A-2 Examination for HIV infections.** Authorized agent(s) of the Dep't of Human Resources are empowered, when in their judgment it is necessary to protect the public health, to examine persons infected or suspected of being infected with HIV and to administer an HIV test with the consent of the person being tested.
- **O.C.G.A. § 31-17A-3 Refusal to consent to HIV test.** (a) If a person refuses to consent to an HIV test, as provided in Code Section 31-17A-2, the DHR may file a civil complaint with the superior court of the county of the residence
- **O.C.G.A. § 31-17-7 Consent to treatment by minors afflicted with venereal disease.** The consent ... by a minor who is or professes to be afflicted with a venereal disease, shall be as valid and binding as if the minor had achieved his majority, provided that any such treatment shall involve procedures and therapy related to conditions arising out of the venereal disease which gave rise to the consent
- **O.C.G.A. § 16-5-60 HIV Infected Person's Self-Disclosure to Partners** HIV-infected people are legally required to disclose their infection status to another person prior to engaging in sexual activity or sharing injection drug needles with that person.
- **O.C.G.A. § 15-11-66.1 Disposition of child committing AIDS transmitting delinquent act.** The court may in its discretion and after conferring with the director of the health district, as such officer is provided for in Code § 31-3-15, order that child to submit to an HIV test within 45 days following an adjudication of delinquency
- **O.C.G.A. § 17-10-15 Requiring defendant to submit to HIV tests.** Upon a verdict or plea of guilty or a plea of nolo contendere to any AIDS transmitting crime, the court in which that verdict is returned or plea entered shall require the defendant to submit to an HIV test within 45 days following the date of such verdict or plea.