

AIDS IN THE WORKPLACE

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1. Introduction.

a. Acquired Immune Deficiency Syndrome (AIDS) is an infectious, fatal disease caused by the Human Immunodeficiency virus (HIV). The virus attacks the immune system's key white blood cells, thereby reducing the body's ability to fight off pneumonia, certain types of cancer, and other life-threatening diseases.

b. HIV consists of a core of ribonucleic acid (RNA), a single stranded genetic molecule, surrounded by a shell of proteins. Since it cannot reproduce by itself, the virus multiplies by invading a host cell and forcing it to reproduce the virus. With the help of the host cell enzyme, the AIDS virus converts its RNA to deoxyribonucleic acid (DNA) after it has penetrated a host cell. DNA is considered a master molecule because it is the repository of hereditary characteristics. Having gained control of the host cell, the virus moves into the host cell nucleus where it can now force the host cell to produce AIDS virus. Different viruses choose different host cells. The AIDS virus commonly multiplies in the T cells, specifically the T-Lymphocytes, one kind of white blood cells that helps the body fight infection. Ultimately, the invaded T cells die, weakening the immune system and making the body more susceptible to infection. Anyone infected with HIV can transmit it to another person. Some infected persons may have no signs of the disease for a period of time. Common symptoms of AIDS, the most severe form of the disease, include dry cough, thrush (a fungal mouth infection), weight loss, shortness of breath, Kaposi's sarcoma (a cancer or tumor of the blood that causes purple skin lesions), and Pneumocystis carinii pneumonia (caused by a parasitic organism that only infects immuno-compromised hosts).³

2. Policy Guidelines. AR 600-10 prescribes policy, procedures, responsibilities, and standards concerning identification, surveillance, and administration of personnel infected with HIV and sets specific rules for HIV testing. The regulation requires that installation commanders coordinate with servicing medical treatment facilities to accomplish scheduling, education, and testing of personnel assigned to their installation.⁴ In

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³The Surgeon General's Report on Acquired Immune Deficiency Syndrome, U.S. Department of Health and Human Services, 1988.

⁴AR 600-110, Identification, Surveillance, and Administration of Personnel

addition, the regulation provides for testing blood donors; health care beneficiaries (HCB) with suspicious illnesses; patients with sexually transmitted diseases; persons who have received blood products after 1 January 1978 and prior to 1 July 1995; HCB who have been sexual partners with HIV-infected individuals; persons who have used intravenous drugs; and family members, retirees, and civilian employees who request screening.⁵

3. Soldiers.

a. All active duty (AD) soldiers are tested at least biennially.⁶ The enzyme-linked immunosorbent assay (ELISA) test is used for initial screening, and the immunoelectrophoresis (Western Blot) for confirmation of positive ELISA results.⁷ HIV-infected individuals cannot enlist or be appointed into the Regular Army (RA), Army National Guard (ARNG), or the United States Army Reserve (USAR).⁸

b. HIV-infected soldiers are limited to duty within the continental United States (CONUS).⁹ In addition, HIV-infected soldiers cannot be assigned to any Table of Organization and Equipment (TOE) unit, any Modified TOE unit, or any military-sponsored educational programs which would result in an additional service obligation (other than military schools required for career progression in a soldier's MOS, branch or functional area).¹⁰

c. Confirmed HIV-infected soldiers are evaluated at the Medical Center (MEDCEN) serving the Regional Medical Command (RMC). Those who do not meet the retention standards of AR 40-501 are processed for disability under AR 635-40. Soldiers with no evidence of progressive clinical illness or immunological deficiency are not involuntarily separated solely on the basis of the confirmed positive HIV test (except if identified during the accession testing).¹¹

d. The Preventive Medicine Physician (PMP) will notify all AD personnel of initial and confirmed positive HIV test

Infected With Human Immunodeficiency Virus (HIV), 22 April 1994, w/ Ch 1, dated 1 June 1996, para 1-12.

⁵ AR 600-110, paras 2-2 and 6-2.

⁶ AR 600-110, paras 2-2h and 2-7a.

⁷ AR 600-110, para 2-6a. See para 2-10 for information on how HIV testing results will be entered in individual medical records.

⁸ AR 600-110, para 1-14a.

⁹ AR 600-110, para 4-2a, but para 4-3a provides that family members who are HIV positive may accompany their sponsor overseas.

¹⁰ AR 600-110, para 4-2b.

¹¹ AR 600-110, para 1-14d and 2-11. Para 2-1b contains a summary of AIDS staging. See para 4-5 for reenlistment of HIV-positive soldiers.

results.¹² The presence of the HIV antibody, which indicates infection with the HIV, will not be used as the basis for adverse action against the soldier.¹³ HIV-infected soldiers will be counseled and ordered not to donate blood, sperm, tissue, and organs, and their dental and medical records will reflect that the soldier is blood donor ineligible.¹⁴ HIV soldiers will be ordered to inform their sexual partners of the infection prior to engaging in sexual intercourse and not to engage in unprotected sexual relations. Soldiers who disobey this order may face administrative or disciplinary action.¹⁵ Blood donors who test positive for HIV antibody will be notified and counseled.

e. HIV-infected officers who no longer desire to remain on active duty may request release from active duty or resign.¹⁶ HIV-infected enlisted soldiers may voluntarily request discharge.¹⁷

4. Nonmilitary.

a. General Rules:

Mandatory testing of civilians, including family members, is not authorized, but HCB who are or have been sexual partners of HIV-infected individuals will be contacted and encouraged to be tested.¹⁸ Voluntary HIV testing is available, as resources permit, for all HCB, and medical follow-up will be provided for all HIV-infected HCB.¹⁹ Military preventive medicine authorities will report the names of nonmilitary personnel who are or have been the sexual contacts of HIV-positive individuals to civilian public health authorities in accordance with local law.²⁰

b. Additional Testing:

(1) Patients in Army hospitals should be routinely informed that the physician will order any clinically indicated laboratory tests necessary to include testing for HIV infection unless the patient specifically declines such tests.²¹ The

¹² AR 600-110, para 2-3b.

¹³ AR 600-110, para 1-14h and Chapter 7.

¹⁴ AR 600-110, paras 2-10c and 2-13.

¹⁵ AR 600-110, para 2-14c.

¹⁶ AR 600-110, para 4-12.

¹⁷ AR 600-110, para 4-13.

¹⁸ AR 600-110, paras 6-1 and 6-2.

¹⁹ AR 600-110, para 6-2.

²⁰ AR 600-110, para 6-9.

²¹ AR 600-110, paras 6-1 and 6-3.

following categories of patients will be routinely offered HIV testing and counseling:

(a) All persons admitted to Army hospitals unless tested in the preceding 12 months. Patients under age 15 or older than 65 should not be screened unless clinically indicated. Infant admissions should be tested unless the mother had a negative HIV test during pregnancy.

(b) All pregnant women at the time of their initial prenatal evaluation. Testing should be repeated just prior to the time of delivery, if the mother has been identified as being at high risk.

(c) All persons enrolled in the Alcohol and Drug Abuse Prevention and Control Program (ADAPCP-Tracks II and III).

(d) Adults 15 or older who present for a complete physical examination, unless a test has been performed during the preceding 12 months.

(e) All patients requiring treatment in emergency rooms with evidence of trauma, such as shootings, stabbings, and rape.

(f) All persons with acute or chronic hepatitis B infection.

(g) Patients who are dead on arrival or who die in emergency rooms.

(2) All confirmed HIV-infected HCB will be referred to an Army Medical Center (MEDCEN) for evaluation and staging.²²

5. Civilian Employees.

a. Normally, neither applicants for employment nor current employees may be required to be tested for the presence of HIV. However, pursuant to DOD guidance, HIV antibody testing may be authorized when it is required by a host country. Any such testing will be at no cost to the employee. Assignment or employment may be denied to employees who refuse to comply with this testing requirement, or who have an HIV antibody positive test result. Otherwise, the presence of AIDS or HIV will not, by itself, be the basis of any adverse personnel action against an employee.²³

²² AR 600-110, paras 6-2 and 6-3.

²³ AR 600-110, para 6-15.

b. Employees who are HIV-infected or who are suspected of being HIV-infected will be treated the same as other employees, as long as they can maintain acceptable performance and do not pose a significant health threat to others in the workplace. HIV-infected employees may be granted sick leave or leave without pay when they cannot perform their duties or they have a medical appointment, in the same manner as any other employee with a health problem. Civilian employees who work with AIDS patients should be provided information and equipment to minimize health risks.²⁴ Once AIDS information becomes part of an employee's file, it is covered by the Privacy Act and should be released only to agency officials who have a need to know.²⁵

6. Confidentiality.

All information on HIV-infected soldiers and other HCB will be handled sensitively.²⁶ HIV testing results will be handled to protect the individual's interests, but information needed for medical and administrative reasons will be provided on a need to know basis.²⁷ The Office of The Surgeon General (OTSG) has established and maintains a data base of individuals who are HIV-infected to support ongoing clinical evaluation and longitudinal epidemiological evaluation (including names, social security numbers, and results of medical evaluation and staging).²⁸

7. Limited Use.²⁹

a. HIV test results confirming the presence of HIV antibodies CANNOT be used as the sole basis for disciplinary or adverse administrative action under the UCMJ, separation under chapters 14 or 15 of AR 635-200, as a basis for an unfavorable personnel record entry or to characterize service. HIV test results MAY be used in separation proceedings for physical disability, in separation actions under the accession testing program, in any administration separation action authorized in AR 600-110, and in any other manner consistent with law or regulation.

b. All soldiers who are confirmed positive for HIV infection and are eligible for medical care will be interviewed by medical authorities to identify possible sources of exposure to HIV and any personal contacts who may have been exposed to HIV

²⁴ AR 600-110, para 6-16.

²⁵ See AR 340-21, The Army Privacy Program, 5 July 1985.

²⁶ AR 600-100, paras 2-3, 2-6, 2-14 and 7-2.

²⁷ AR 600-110, para 2-6c.

²⁸ AR 600-110, para 2-17.

²⁹ AR 600-110, Chapter 7, contains the Limited Use Policy.

by the soldier. This interview is known as the "epidemiological assessment." To encourage the soldier to freely provide information during the epidemiological assessment, information the soldier gives concerning personal use of drugs and consensual homosexual or heterosexual activity may not be used against the soldier in a court-martial, an Article 15, a line of duty determination, in an involuntary separation other than a separation for physical disability, an administrative or punitive reduction in grade, denial of promotion, bar to reenlistment, as a basis for an unfavorable personnel record entry, as a basis to characterize service or to assign a separation program designator, or in any other action considered to be an adverse personnel action (for example, comment in an Officer Evaluation Report or an NCO Evaluation Report).

c. Information obtained during the epidemiological assessment may be used for impeachment or rebuttal in any proceedings in which the soldier first introduces evidence of drug abuse or relevant sexual activity. It may also be used as a basis for non-adverse personnel actions such as reassignment, disqualification from a personnel reliability program, denial, suspension or revocation of a security clearance, suspension or termination of access to duties requiring a high degree of alertness. In addition, the use of information derived from sources independent of the epidemiological assessment is not restricted by the limited use policy of AR 600-110.

8. Conclusion.

AR 600-110 provides comprehensive Army policy on the screening and testing of AD personnel, HCB, and civilian employees. Although AIDS continues to pose a serious public health concern, DA policy provides reasonable accommodation for HIV-infected civilian employees and sufficient AD HIV screening to ensure deployability, protect the military blood supply, and reduce the risk of transmission to non-infected personnel and their families.