Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 3. Practice

Chapter 67. Preventing Transmission of Hepatitis B Virus (HBV) and Human Immunodeficiency Virus (HIV) during Exposure-Prone Invasive Procedures

§6701. Scope of Chapter

A. As authorized and mandated by R.S. 37:1747, the rules of this Chapter prescribe practice and reporting requirements for physicians, podiatrists, physician's assistants, respiratory therapists, and other board-licensed or certified practitioners to protect the public from the risk of the transmission of Hepatitis B Virus (HBV) and Human Immunodeficiency Virus (HIV).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18:1123 (October 1992).

§6703. Definitions

A. As used in this Chapter, the following terms shall have the meanings specified.

Board—the Louisiana State Board of Medical Examiners.

Body Fluids—amniotic, pericardial, peritoneal, pleural, synovial, and cerebrospinal fluids, semen, vaginal secretions, and other body fluids, secretions, and excretions containing visible blood.

Exposure-Prone Procedure—an invasive procedure in which there is an increased risk of percutaneous injury to the practitioner by virtue of digital palpation of a needle tip or other sharp instrument in a body cavity or the simultaneous presence of the practitioner's fingers and a needle or other sharp instrument or object in a poorly visualized or highly confined anatomic site, or other invasive procedure in which there is a significant risk of contact between the blood or body fluids of the practitioner and the blood or body fluids of the patient. All invasive procedures are not considered exposure-prone; an invasive procedure (defined below) is considered an exposure-prone procedure only when it is a type of invasive procedure described by this definition.

Function Ancillary to an Invasive Procedure—the preparation, processing, or handling of blood, fluids, tissues, or instruments which may be introduced into or come into contact with any blood, body fluids, cavity, internal organ, subcutaneous tissue, mucous membrane, or percutaneous wound of the human body in connection with the performance of an invasive procedure.

HBV—the hepatitis B virus.

HBsAg Seropositive—with respect to a practitioner, that a test of the practitioner's blood under the criteria of the Federal Centers for Disease Control or of the Association of State and Territorial Public Health Laboratory Directors has confirmed the presence of hepatitis B surface antigens and that no subsequent test has confirmed that hepatitis B surface antigens are no longer present.

HIV—the human immunodeficiency virus, whether HIV-1 or HIV-2.

HIV Seropositive—with respect to a practitioner, that a test under the criteria of the Federal Centers for Disease Control or of the Association of State and Territorial Public Health Laboratory Directors has confirmed the presence of HIV antibodies.

Invasive Procedure—any surgical or other diagnostic or therapeutic procedure involving manual or instrumental contact with or entry into any blood, body fluids, cavity, internal organ, subcutaneous tissue, mucous membrane, or percutaneous wound of the human body.

Practitioner—a physician, podiatrist, physician's assistant, respiratory therapist, or other health care provider licensed or certified by the board and authorized by applicable laws and regulations to perform or participate in invasive procedures or functions ancillary to invasive procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18:1123 (October 1992).

§6705. Use of Infection Control Precautions

A. General Requirements. A practitioner who performs or participates in an invasive procedure or performs a function ancillary to an invasive

procedure shall, in performance of or participation in any such procedure or function, be familiar with, observe and rigorously adhere to both general infection control practices and universal blood and body-fluid precautions as then recommended by the Federal Centers for Disease Control to minimize the risk of the transmission of HBV or HIV from a practitioner to a patient, from a patient to a practitioner, or from a patient to a patient.

B. Universal Blood and Body-Fluid Precautions. For purposes of this Section, adherence to universal blood and body-fluid precautions requires observance of the following minimum standards.

1. Protective Barriers. A practitioner shall routinely use appropriate barrier precautions to prevent skin and mucous-membrane contact with blood and other body fluids of all patients. Gloves and surgical masks shall be worn and shall be changed after contact with each patient. Protective eyewear or face shields and gowns or aprons made of materials that provide an effective barrier shall be worn during procedures that commonly result in the generation of droplets, splashing of blood or body fluids, or the generation of bone chips. A practitioner who performs, participates in, or assists in a vaginal or caesarean delivery shall wear gloves and gowns when handling the placenta or the infant until blood and amniotic fluid have been removed from the infant's skin and shall wear gloves during post-delivery care of the umbilical cord. If, during any invasive procedure, a glove is torn or punctured, the glove should be removed and a new glove used as promptly as patient safety permits.

2. Hand Washing. Hands and other skin surfaces shall be washed immediately and thoroughly if contaminated with blood or other body fluids. Hands shall be washed immediately after gloves are removed.

3. Percutaneous Injury Precautions. A practitioner shall take appropriate precautions to prevent injuries caused by needles, scalpels, and other sharp instruments or devices during procedures; when cleaning used instruments; during disposal of used needles; and when handling sharp instruments after procedures. If a needlestick injury occurs, the needle or instrument involved in the incident should be removed from the sterile field. To prevent needlestick injuries, needles should not be recapped, purposely bent, or broken by hand, removed from disposable syringes, or otherwise manipulated by hand. After they are used, disposable syringes and needles, scalpel blades, and other sharp items should be placed for disposal in puncture-resistant containers located as close as practical to the use area. Large-bore reusable needles should be placed in puncture-resistant containers for transport to the reprocessing area.

4. Resuscitation Devices. To minimize the need for emergency mouth-to-mouth resuscitation, a practitioner shall ensure that mouthpieces, resuscitation bags, or other ventilation devices are available for use in areas in which the need for resuscitation is predictable.

5. Sterilization and Disinfection. Instruments or devices that enter sterile tissue or the vascular system of any patient or through which blood flows should be sterilized before reuse. Devices or items that contact intact mucous membranes should be sterilized or receive high-level disinfection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18:1124 (October 1992).

§6707. Prohibitions and Restrictions

A. Except as may be permitted pursuant to §6709 of this Chapter, a practitioner who is HBsAg seropositive or HIV seropositive, or who otherwise knows or should know that he or she carries and is capable of transmitting HBV or HIV, shall not thereafter perform or participate directly in an exposure-prone procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18:1124 (October 1992).

§6709. Exception; Informed Consent of Patient

A. Conditions. Notwithstanding the prohibition of §6707 of this Chapter, an HBsAg or HIV seropositive practitioner may nonetheless perform or participate in an exposure-prone procedure with respect to a patient when each of the following four conditions is met.

1. The practitioner has affirmatively advised the patient, or the patient's lawfully authorized representative, that the practitioner has been diagnosed as HBsAg seropositive and/or HIV seropositive, as the case may be.

2. The patient, or the patient's lawfully authorized representative, has been advised of the risk of the practitioner's transmission of HBV and/or HIV to the patient during an exposure-prone procedure. The practitioner, if a physician or podiatrist, shall personally communicate such information to the patient or patient's representative. If the practitioner is other than a physician or

podiatrist, such information shall also be communicated to the patient's physician.

3. The patient, or the patient's lawfully authorized representative, has subscribed a written instrument setting forth:

a. identification of the exposure-prone procedure to be performed by the practitioner with respect to the patient;

b. an acknowledgment that the advice required by §6709.A.1 and 2 have been given to and understood by the patient or the patient's representative; and

c. the consent of the patient, or the patient's lawfully authorized representative to the performance of or participation in the designated procedure by the practitioner.

4. The practitioner's HBsAg and/or HIV seropositivity has been affirmatively disclosed to each practitioner or other health care personnel who participates or assists in the exposure-prone procedure.

B. Revocation of Consent. Consent given pursuant to §6709.A may be revoked by a patient, or a patient's lawfully authorized representative, at any time prior to performance of the subject procedure by any verbal or written communication to the practitioner expressing an intent to revoke, rescind, or withdraw such consent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18:1125 (October 1992).

§6711. Self-Reporting

A. Applicability. Any practitioner who in the course of practice may at any time undertake to perform or participate in an exposure-prone procedure and who is or becomes HBsAg seropositive or HIV seropositive shall give notice of such seropositivity to the board in accordance with the provisions of this Section.

B. Procedure. On or before the applicable initial request deadline specified by §6711.C, a practitioner required by §6711.A to report his or her HBsAg or HIV seropositivity to the board shall request a self-reporting form from the board's physician medical consultant, by mail directed to the confidential attention of the medical consultant or by personal telephone communication with the medical consultant at the board's offices. In making such request, a requesting practitioner shall advise the medical consultant of the address to which the self-reporting form should be mailed or delivered. Upon receipt of any such request, the medical consultant will promptly mail or deliver a board-approved self-reporting form to the requesting practitioner, accompanied by an addressed, postage-prepaid envelope directed to the confidential attention of the medical consultant. Within 10 days of receipt of such form the requesting practitioner shall complete, subscribe, and cause such self-reporting form to be delivered or mailed to the medical consultant.

C. Initial Request Deadlines. The initial request deadline for a practitioner:

1. who is HBsAg or HIV seropositive on or prior to the effective date of this Chapter, or who becomes HBsAg or HIV seropositive within 60 days from the effective date of this Chapter, shall be 90 days from the effective date of this Chapter;

2. who becomes HBsAg or HIV seropositive more than 60 days from the effective date of this Chapter shall be 30 days from the date on which the practitioner becomes seropositive; and

3. who is HBsAg or HIV seropositive on the date on which any license, permit, or certification is issued by the board to the practitioner shall be 10 days from such date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18:1125 (October 1992).

§6713. Confidentiality of Reported Information

A. General Confidentiality. Reports and information furnished to the board pursuant to §6711 of this Chapter and records of the board relative to such information shall not be deemed to constitute public records, but shall be deemed and maintained by the board as confidential and privileged and shall not be subject to disclosure by means of subpoena in any judicial, administrative, or investigative proceeding; providing that such reports, information, and records may be disclosed by the board as necessary for the board to investigate or prosecute alleged violations of this Chapter.

B. Confidentiality of Identity of Seropositive Practitioners. The identity of practitioners who have reported their status as carriers of HBV or HIV to the board's medical consultant pursuant to §6711 hereof shall be maintained in confidence by the medical consultants and shall not be disclosed to any member, employee, agent, attorney, or representative of the board nor to any other person, firm, organization, or

entity, governmental or private, except as may be necessary in the investigation or prosecution of suspected violations of this Chapter.

C. Disclosure of Statistical Data. Provided that the identity or self-reporting practitioners is not disclosed, either directly or indirectly, the provisions of this Section shall not be deemed to prevent disclosure by the medical consultant or the board, to governmental public health agencies with a legitimate need therefor, of statistical data derived from such reports, including, without limitation, the number and licensure class of practitioners having reported themselves as HBsAg and/or HIV seropositive and their geographical distribution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18:1125 (October 1992).

§6715. Interpretation

A. Nothing in this Chapter shall be construed to require the mandatory testing of any practitioner for HBsAg or HIV seropositivity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18:1126 (October 1992).