

**311.281 Testing of organs, skin, or other human tissue for HIV and other communicable diseases, with informed consent.**

- (1) Every donation of organs, skins, or other human tissue for transplantation to another shall be tested by the agency responsible for procuring the organ, skin, or other human tissue prior to use for human immunodeficiency virus infection and other communicable diseases specified by the United Network for Organ Sharing, American Association of Tissue Banks, and Eye Bank Association of America. Tests for the human immunodeficiency virus infection shall be performed only after obtaining written, informed consent from the potential donor or the donor's legal representative. Obtaining consent shall include a fair explanation of the procedures to be followed and the meaning and use of the test results. The explanation shall include a description of the confidential nature of the test as described in KRS 214.625. If consent for testing is not given, the person shall not be accepted as a donor.
- (2) Notwithstanding the provisions of subsection (1) of this section, written informed consent to perform testing shall not be required if the organ, skin, or other human tissue is received for processing or testing from out-of-state or if tissue is received from a health care facility or health care provider for reference testing or processing and the results of the test are reported back to the facility or provider.
- (3) No person shall collect any organ, skin, or other human tissue from one (1) human being and hold it for, or actually perform, any implantation, transplantation, grafting, or any other method of transfer to another human being without first testing the tissue for the human immunodeficiency virus and other communicable diseases specified by the United Network for Organ Sharing, American Association of Tissue Banks, and Eye Bank Association of America, or without performing another process approved by the United Network for Organ Sharing, American Association of Tissue Banks, and Eye Bank Association of America capable of killing the causative agent of those diseases.
- (4) All human organs, skin, or other human tissue which is to be transplanted to another and is found positive for human immunodeficiency virus or other communicable disease specified by the United Network for Organ Sharing, American Association of Tissue Banks, and Eye Bank Association of America shall be rendered noncommunicable by the person holding the tissue or shall be destroyed, unless the human tissue is specifically labeled to identify the human immunodeficiency virus and:
  - (a) Is used for research purposes; or
  - (b) Is used to save the life of another and is transferred with the recipient's informed consent.
- (5) Each agency which procures organs, skin, or other human tissue, who finds evidence after confirmatory testing of human immunodeficiency virus in the donor, shall notify the donor or legal representative. If the donor is a patient of a health facility within the Commonwealth, the following information shall be given:
  - (a) The meaning of the test results;

- (b) Measures for the prevention of the transmission of the human immunodeficiency virus;
  - (c) The availability in the geographic area of any appropriate health care services, including mental health care, and appropriate social and support services;
  - (d) The benefits of locating and counseling any individual by whom the infected individual may have been exposed to human immunodeficiency virus and any individual whom the infected individual may have exposed to the virus; and
  - (e) The availability, if any, of the services of public health authorities with respect to locating and counseling any individual described in paragraph (d) of this subsection.
- (6) The donor shall be notified of the confirmed positive test results in person. Persons shall be notified of negative test results either in person, by registered mail, or by phone. Notification is the responsibility of the agency responsible for procuring skin, organs, or other donated tissue. Notification shall be the responsibility of the agency responsible for procuring skin, organs, or other donated tissue.
- (7) Prior to the transplant of an organ or artificial insemination, the institution or physician responsible for overseeing the procedure shall provide the prospective recipient information as to the risks of contracting human immunodeficiency virus.

**Effective:** July 13, 1990

**History:** Created 1990 Ky. Acts ch. 443, sec. 41, effective July 13, 1990.