

**Vermont Department of Banking, Insurance, Securities & HealthCare
Administration**

INSURANCE DIVISION

BULLETIN 92 Aids Testing Requirements

June 10, 1988

The Department of Banking and Insurance (Department) advises all insurance companies that House Bill 460, enacted by the 1988 Legislature and signed into law by the Governor, sets standards regulating AIDS testing. The new statute applies to all insurers, however, the greatest impact will be experienced by life and health insurance companies. The law becomes effective on July 1, 1988.

The law sets a number of requirements specifying the terms and conditions for AIDS-related testing. It is an unfair trade practice to conduct AIDS testing activities outside the scope of the statutory requirements. For example, under the law, an insurer may not ask an applicant whether he/she has taken an AIDS-related test. Since this question is not permitted, any proposed insurance form containing such language after July 1, 1988 will not be approved.

Furthermore, all new application forms must be submitted to the Department for approval in light of the criteria set forth in the AIDS statute prior to use in Vermont. The Department strongly suggests that all insurers familiarize themselves with the provisions of the law prior to the effective date. An insurer may not require an applicant to submit to an AIDS test until such time as the applicant has been informed of the key components of the testing procedure. In fact, an insurance applicant must sign an approved informed consent form before he/she may be submitted to a test. Insurance companies must file and the Department must approve informed consent forms prior to their use in Vermont. Insurance companies must draft their own informed consent forms or accept industry model forms (e.g., the ACLI Informed Consent Form) which have been specifically reviewed and approved by the Department.

Insurers choosing to utilize a model form must include the form's identification designation number on the face of the form (for example, the ACLI designation number). An insurer may add its company logo and additional company form numbers to such a form, but may not vary the text which the Department specifically reviewed and approved. Copies of the statute may be obtained from trade associations or from the Department.

Please address specific questions concerning application of this statute to:

Frederick Barrett, Life Analyst
Roger Lever, Health Analyst

Dated at Montpelier, Vermont this 10th day of June 1988.

Gretchen Babcock

COMMISSIONER OF BANKING AND INSURANCE