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| Definitions | The definitions related to individuals with disabilities and exceptions to those definitions included in policy DAA shall be used in applying and interpreting this policy and any (LOCAL) policy adopted in conjunction with this policy. |
| Bloodborne Pathogen Control | An ESC that employs employees who provide services in a public or private facility providing health-care-related services, including a home health-care organization, or who otherwise have a risk of exposure to blood or other material potentially containing bloodborne pathogens in connection with exposure to sharps, shall comply with the minimum standards set by the Texas Department of State Health Services (TDSHS). |
| “Sharps” Defined | “Sharps” means an object used or encountered in a health-care setting that can be reasonably anticipated to penetrate the skin or any other part of the body and to result in an exposure incident, including a needle device, a scalpel, a lancet, a piece of broken glass, a broken capillary tube, an exposed end of a dental wire, or a dental knife, drill, or bur. |
| Minimum Standards | <p>The minimum standards in TDSHS’s Bloodborne Pathogens Exposure Control Plan require the ESC to:</p> <ol style="list-style-type: none">1. Develop, review annually, update as necessary, and document its actions regarding a comprehensive exposure control plan appropriate to the ESC and its particular facilities;2. Provide, at ESC expense, personal protective equipment and Hepatitis B vaccinations to affected employees, and if an employee declines to be vaccinated, maintain a record of the employee’s written refusal;3. Provide to affected employees pre-service and annual refresher training as described in the TDSHS Exposure Control Plan;4. Record all exposure incidents (e.g., “sticks” by needles or other “sharps”) in a sharps injury log and report the sharps injury to TDSHS on a standardized form; and5. Provide a post-exposure evaluation and follow up with an employee who has a sharps injury. <p><i>Health and Safety Code 81.301–.307; 25 TAC 96</i></p> |
| Cost of Testing After Accidental Exposure | If certified emergency medical services personnel, a firefighter, a peace officer, or a first responder who renders assistance at the scene of an emergency or during transport to the hospital is accidentally exposed to blood or other body fluids of a patient, the hospital to which the patient is transported shall take reasonable steps |

to test the patient for hepatitis B, hepatitis C, HIV, or any reportable disease. An ESC that employs the person, or for which the person works as a volunteer in connection with rendering the assistance, is responsible for paying the costs of the test. *Health and Safety Code 81.095(b)*

Genetic Information

Any receipt of genetic information in response to a request for medical information shall be deemed inadvertent if an ESC uses language such as that at 29 C.F.R. 1635.8(b)(1)(i)(B). [See DAB at Safe Harbor] 29 C.F.R. 1635.8(b)(1)(i)(A)

Note: The following provisions are cited to Section 504 of the Rehabilitation Act of 1973 and state law, and apply to ESCs that employ fewer than 15 persons.

**Pre-employment
Inquiries and
Employment
Entrance
Examinations**

The ESC shall not conduct a medical examination or make inquiries of a job applicant as to whether such applicant is an individual with a disability or as to the nature or severity of a disability, except as provided below. However, the ESC is permitted to make pre-employment inquiries into the ability of an applicant to perform job-related functions, such as asking an applicant to describe or demonstrate how, with or without reasonable accommodation, the applicant will be able to perform job-related functions. 42 U.S.C. 12112(d)(2); 29 C.F.R. 1630.14(a); 29 U.S.C. 794; 34 C.F.R. 104.14(a)

The ESC may require a medical examination (and/or inquiry) after an offer of employment has been made to a job applicant and prior to the beginning of employment duties and may condition the offer on the results of such examination (and/or inquiry), provided all entering employees in the same job category are subjected to such an examination (and/or inquiry) regardless of disability.

The results of an employment entrance medical examination shall be used only to determine the applicant's ability to perform job-related functions.

Confidentiality

Information obtained regarding the medical condition or history of the applicant shall be collected and maintained on separate forms and in separate medical files and shall be treated as confidential medical records. However, supervisors and managers may be informed regarding necessary restrictions on the employee's work or duties and necessary accommodation; first-aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment.

42 U.S.C. 12112(d)(3); 29 C.F.R. 1630.14(b); 29 U.S.C. 794;
34 C.F.R. 104.14(c)(d)

**Examination During
Employment**

The ESC may require a medical examination (and/or inquiry) of an employee that is job-related and consistent with business necessity and may make inquiries into the ability of an employee to perform job-related functions.

The results of an employee's medical examination shall be used only to determine the applicant's ability to perform job-related functions. Information obtained regarding the medical condition or history of the applicant shall be collected and maintained on separate forms and in separate medical files and shall be treated as confidential medical records. However, supervisors and managers may be informed regarding necessary restrictions on the employee's work or duties and necessary accommodation; first-aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment.

42 U.S.C 12112(d)(3)-(4); 29 C.F.R. 1630.14(c)