

HRPP Document **GUI326**
Date: **03/30/07**
Revision Dates: **03/06/07, 3/27/07**
Subject: **Guide to Mandatory Reporting Laws Affecting Research Conducted
in Alabama**

For research conducted in Alabama, the following is a survey of relevant statutes requiring disclosure to public health officials and/or other individuals under law. All cites are taken from the Code of Alabama (1975) and in certain instances only the relevant portions of the text are provided. For a complete text of any citation visit:

<http://www.legislature.state.al.us/CodeofAlabama/1975/coatoc.htm>

I. NOTIFIABLE DISEASES/CONDITIONS

A. General reporting requirements

Section 22-11A-2: Each physician, dentist, nurse, medical examiner, hospital ... shall ... report cases or suspected cases of notifiable diseases and health conditions. The report shall contain such information, and be delivered in such a manner, as may be provided for from time to time by the rules of the State Board of Health.

List of Notifiable Diseases/Conditions: <http://www.jcdh.org/default.asp?ID=54>

Section 22-11A-4: Any physician, hospital, laboratory, or other provider of medical services having rendered treatment, care, diagnostic or laboratory services to any person suspected of having a notifiable disease or health condition shall make his or its records on that individual readily available to the State Health Officer or his designee.

B. Consequences for failure to report

Section 22-11A-6: Any physician or other person designated in Section 22-11A-2 who has knowledge of a case of a notifiable disease or health condition, who refuses or willfully fails to make to the health officer, in whose jurisdiction the case is located, a full and prompt report thereof, specifying the character of the notifiable disease or health condition and the name and locality of the patient, together with such other details as may be required by the State Board of Health, shall be guilty of a misdemeanor, and upon conviction, may be fined not less than \$100.00 nor more than \$500.00.

B. REQUIREMENTS FOR SPECIFIC DISEASES/CONDITIONS

1. TUBERCULOSIS

Reporting

Section 22-11A-9: Any physician who diagnoses or treats a case of active tuberculosis, the administrator of any hospital, dispensary, correctional facility or other institution in which there is a case of active tuberculosis, the person in charge of any laboratory performing a positive test for active or suspected active tuberculosis, and pharmacist dispensing anti-tuberculosis medication shall report this information to the State Health Officer, the county health officer, or their designee, in the manner provided in Section 22-11A-1.

2. SEXUALLY TRANSMITTED DISEASES

a. Reporting requirement

Section 22-11A-14 (a): Any physician who diagnoses or treats a case of sexually transmitted disease as designated by the State Board of Health, or any administrator of any hospital, dispensary, correctional facility or other institution in which a case of sexually transmitted disease occurs shall report it to the State or county Health Officer or his designee in a time and manner prescribed by the State Board of Health.

Pregnant Woman and Neonates: Testing/Reporting

Section 22-11A-16

(a) Every physician or other person permitted by law to attend a pregnant woman during gestation shall, in the case of each woman so attended, take or cause to be taken any serologic or other biologic sample of the woman as provided by the State Board of Health. Any sample shall be submitted to a laboratory approved by the board for testing for those sexually transmitted diseases for which there exists an effective vaccine or curative treatment approved by the federal Food and Drug Administration and as provided by the board.

(b) Every physician or other person permitted by law to attend a pregnant woman during delivery shall take or cause to be taken any serologic or other biologic sample of the woman and any newborn as provided by the State Board of Health. Any sample shall be submitted to a laboratory approved by the board for testing for those sexually transmitted diseases for which there exists an effective vaccine or curative treatment approved by the

federal Food and Drug Administration and as provided by the board.

(c) All positive or reactive tests shall be reported as provided in Section 22-11A-14.

b. Duty to provide information

Section 22-11A-20: Every physician who examines or treats a person having a sexually transmitted disease shall instruct such person in measures for preventing the spread of such disease and the necessity of treatment until cured.

3. HIV

a. Duty to provide information and obtain consent

Section 22-11A-51: (a) Before any HIV test is performed, the health care provider or testing facility shall obtain from the person a voluntary informed consent to administer the test.

(b) A general consent form should be signed for medical or surgical treatment which specifies the testing for HIV infection by any antibody tests or other means and may be considered as meeting the standard of informed consent in subsection (a).

b. Implied Consent

Section 22-11A-52: When a written consent for HIV testing has not been obtained, consent shall be implied when an individual presents himself to a physician for diagnostic treatment or other medical services and the physician shall determine that a test for HIV infection is necessary for any of the following reasons:

(1) Said individual is, based upon reasonable medical judgment, at high risk for HIV infection;

(2) Said individual's medical care may be modified by the presence or absence of HIV infection;

(3) The HIV status of the said individual shall be necessary in order to protect health care personnel from HIV infection.

c. Notification requirements for positive results

Section 22-11A-53: An individual tested shall be notified of a positive test result by the physician ordering the test, his designee, a physician designated by the applicant or by the Department of Public Health. Such notification shall include:

- (1) Face-to-face post-test counseling on the meaning of the test results, the possible need for additional testing, and the need to eliminate behavior which may spread the disease to others;
- (2) Information as to the availability of appropriate health care services, including mental health care, and appropriate social and support services; and
- (3) Explanation of the benefits of locating, testing and counseling any individual to whom the infected individual may have exposed the HIV virus and a full description of the services of public health with respect to locating and counseling all such individuals.

4. CANCER

a. Definition/Reporting requirements

Section 22-13-31(a): . . . For the purposes of this article, cancer means all malignant neoplasms, regardless of the tissue of origin, including malignant lymphoma, Hodgkin's disease, and leukemia, but excluding basal cell and squamous cell carcinoma of the skin and carcinoma in situ of the cervix.

Section 22-13-31(b): All cases of confirmed cancer or benign brain-related tumor diagnosed or treated in the state are to be reported to the State Health Department. For the purposes of this article, confirmed cancer or benign brain-related tumor means the best evidence available for determining the nature of the neoplasms.

II. INJURIES

HEAD INJURIES

Section 22-11C-5(a): Each case of confirmed head or spinal cord injury shall be reported within 90 days of admission or diagnosis in the manner prescribed by rule. Reports are to be submitted on a monthly basis.

Section 22-11C-5(b): Any further demographic, diagnostic, treatment, or follow-up information shall be provided upon request by the State Health Officer concerning any person now or formerly diagnosed as having or having had a head or spinal cord injury. The State Health Officer or his or her authorized representative shall be permitted access to all records, including death certificates, of persons identified with head or spinal cord injuries.

III. ABUSE/NEGLIGENCE

A. CHILDREN

1. Mandatory Reporting

Section 26-14-3(a): All hospitals, clinics, sanitariums, doctors, physicians, surgeons, medical examiners, coroners, dentists, osteopaths, optometrists, chiropractors, podiatrists, nurses, school teachers and officials, peace officers, law enforcement officials, pharmacists, social workers, day care workers or employees, mental health professionals, members of the clergy as defined in Rule 505 of the Alabama Rules of Evidence, or any other person called upon to render aid or medical assistance to any child, when the child is known or suspected to be a victim of child abuse or neglect, shall be required to report, or cause a report to be made of the same, orally, either by telephone or direct communication immediately, followed by a written report, to a duly constituted authority.

2. Permissive Reporting

Section 26-14-4: In addition to those persons, firms, corporations and officials required by Section 26-14-3 to report child abuse and neglect, any person may make such a report if such person has reasonable cause to suspect that a child is being abused or neglected.

3. Consequences for failure to report

Section 26-14-13: Any person who shall knowingly fail to make the report required by this chapter shall be guilty of a misdemeanor and shall be punished by a sentence of not more than six months' imprisonment or a fine of not more than \$500.00.

B. ELDERLY AND DISABLED ADULTS

1. General statutes relating to "Protected Persons"

a. Protected persons defined

Section 38-9-2 (17): Any person over 18 years of age subject to protection under this chapter or any person, including, but not limited to, persons who are senile, mentally ill, developmentally disabled, or mentally retarded, or any person over 18 years of age that is mentally or physically incapable of adequately caring for himself or herself and his or her interests without serious consequences to himself or herself or others.

b. Reporting requirements

Section 38-9-8(a): All physicians and other practitioners of the healing arts or any caregiver having reasonable cause to believe that any

protected person has been subjected to physical abuse, neglect, exploitation, sexual abuse, or emotional abuse shall report or cause a report to be made as follows:

(1) An oral report, by telephone or otherwise, shall be made immediately, followed by a written report, to the county department of human resources or to the chief of police of the city or city and county, or to the sheriff of the county if the observation is made in an unincorporated territory, except that reports of a nursing home employee who abuses, neglects, or misappropriates the property of a nursing home resident shall be made to the Department of Public Health. The requirements to report suspicion of suspected abuse, neglect, or misappropriation of property of a nursing home resident by an employee of a nursing home shall be deemed satisfied if the report is made in accordance with the rules of the State Board of Health.

c. Consequences of Failure to Report

Section 38-9-10: Any physician or other practitioner of the healing arts who shall knowingly fail to make the report required by this chapter shall be guilty of a misdemeanor and shall, upon conviction, be punished by imprisonment for not more than six months or a fine of not more than \$500.00.

2. Statutes relating to specific conditions

A. Mental Illness

i). Definitions

Section 22-56-2(5) MENTAL ILLNESS. A psychiatric disorder of thought or mood, or both, which significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life. "Mental illness" as used herein specifically excludes the primary diagnoses of epilepsy, mental retardation, substance abuse including alcoholism, or a developmental disability, or any combination thereof.

Section 22-56-2(7) PROVIDER. Any agency, corporation, or individual who provides inpatient, residential or outpatient mental health services to a consumer or consumers, provided that this chapter shall only apply to physicians licensed to practice medicine to the extent that medical services to individuals covered by the chapter must be provided in accordance with established standards of medical care.

ii). Reporting Requirement

Section 22-56-6: Any provider who abuses, exploits, or neglects a consumer in his or her care shall be subject to the civil and criminal remedies and penalties prescribed in Alabama law. All instances of abuse, exploitation, or neglect, as defined by

Alabama law, shall be reported to appropriate licensing or investigative agencies, in a manner consistent with Alabama law.

iii). 38-9-1 et. seq. versus 22-56-1 et. seq.

Section 22-56-9: This chapter shall not override any provisions of the Adult Protective Services Act, pursuant to Chapter 9 (commencing with Section 38-9-1) of Title 38, or the Child Abuse Reporting Act, Chapter 14 (commencing with Section 26-14-1) of Title 26, and shall be read in para materia with those provisions.