

ADMINISTRATIVE ORDER
NO. 2015-02

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT, IN AND
FOR ORANGE AND OSCEOLA
COUNTIES, FLORIDA

**ORDER GOVERNING BLOOD TEST SCREENING FOR CERTAIN DISEASES
TRANSMITTED THROUGH A SIGNIFICANT EXPOSURE AND ALLOWING FOR
THE LIMITED DISCLOSURE OF TEST RESULTS**

WHEREAS, pursuant to Article V, section 2(d) of the Florida Constitution and section 43.26, Florida Statutes, the chief judge of each judicial circuit is charged with the authority and the power to do everything necessary to promote the prompt and efficient administration of justice; and

WHEREAS, pursuant to the chief judge's constitutional and statutory responsibility for administrative supervision of the courts within the circuit and to create and maintain an organization capable of effecting the efficient, prompt, and proper administration of justice for the citizens of this State, the chief judge is required to exercise direction, *see* Fla. R. Jud. Admin. 2.215(b)(2), (b)(3); and

WHEREAS, Florida law authorizes an officer as defined in section 943.10(14), Florida Statutes; support personnel as defined in section 943.10(11), Florida Statutes, who are employed by the Department of Law Enforcement, including, but not limited to, any crime scene analysts, forensic technologists, or crime lab analysts; firefighter as defined in section 633.102, Florida Statutes; or ambulance driver, paramedic, or emergency medical technician, as defined in section 401.23, Florida Statutes, acting within the scope of employment, or the employer of such individual, who comes into contact with a person in such a way that significant exposure of bodily fluids, as defined in section 381.004, Florida Statutes, has occurred, to request that the person be screened for sexually transmittable diseases that can be transmitted through a significant exposure pursuant to section 384.287, Florida Statutes; and

WHEREAS, if the person will not voluntarily submit to screening, the officer, support personnel of the Department of Law Enforcement, firefighter, ambulance driver, paramedic, or

emergency medical technician, or the employer of any of the employees described above, acting on behalf of the employee, may seek a court order directing that the person who is the source of the significant exposure to bodily fluids, to submit to the screening of said person's blood pursuant to section 384.287, Florida Statutes; and

WHEREAS, early determination and disclosure of the screening results to appropriate medical personnel and the person(s) who has been exposed is a critical factor in the diagnosis and treatment of the exposed person; is necessary to prevent unnecessary mental anguish; and, is in the best interests of public health, safety and welfare; and

WHEREAS, due to the time, location and circumstances surrounding the occurrence of a significant exposure, it often can be difficult for the exposed person or his/her employer to obtain the required court order in a timely fashion so as to facilitate prompt testing and disclosure as intended by the Legislature, the Court finds that this Administrative Order is necessary in order to prevent unnecessary delay and aid in the early diagnosis and treatment of the exposed person(s); and

WHEREAS, this Administrative Order is further designed to harmonize the competing interests of the due process rights and expectation of privacy of individuals carrying one or more infectious pathogens, with society's special need to protect persons who may otherwise come into contact with such persons by virtue of the nature of their employment, thus allowing immediate testing and disclosure of the individual's blood test results in the least intrusive way by means of this Administrative Order, within the parameters of the case law, legislative intent, and statutory authority;

NOW, THEREFORE, I, Frederick J. Lauten, in order to facilitate the efficient operation of the administration of justice, and pursuant to the authority vested in me as Chief Judge of the Ninth Judicial Circuit of Florida under Florida Rule of Judicial Administration 2.215, hereby order the following, **effective immediately**, and to continue until further order:

1. This Administrative Order shall be deemed to take effect as an Order authorizing prompt blood testing and disclosure of blood test results under the parameters set forth below.

2. Whenever an officer, as defined in section 943.10(14), Florida Statutes; support personnel as defined in section 943.10(11), Florida Statutes, who is employed by the Department of Law Enforcement, including, but not limited to, any crime scene analysts, forensic technologists, or crime lab analysts; firefighter as defined in section 633.102, Florida Statutes; or ambulance driver, paramedic, or emergency medical technician, as defined in section 401.23, Florida Statutes, acting within the scope of his or her employment, comes into contact with a person in such a way that causes significant exposure to bodily fluids, as defined in section 381.004, Florida Statutes, and thereafter, said individual will not voluntarily submit to screening, then the officer, support personnel of the Department of Law Enforcement, firefighter, ambulance driver, paramedic, or emergency medical technician, or the employer of any of the employees described above, acting on behalf of their employee, may, upon receipt of a sworn statement by a physician, licensed under Chapter 458 or Chapter 459 attesting that a significant exposure has occurred and that in the physician's medical judgment, the screening is medically necessary to determine the course of treatment for the exposed person, utilize this Administrative Order as a standing order:

(a) directing the person who is the source of the significant exposure to submit to immediate screening; and

(b) providing for the prompt disclosure of the results of any such screening to the person who is the source of the significant exposure, to the person subjected to the significant exposure, to the physicians of the persons screened, and to the employer of the person subjected to the significant exposure, if necessary for the filing of a Worker's Compensation claim or any other disability claim based on the significant exposure pursuant to section 384.287, Florida Statutes.

3. The sworn statement by a physician, licensed under Chapter 458 or Chapter 459 attesting that a significant exposure has occurred and that in the physician's medical judgment, the screening is medically necessary to determine the course of treatment for the exposed person must be filed with the Clerk of the Court within twenty-four (24) hours after testing has occurred.

4. All screenings performed pursuant to this Administrative Order must be conducted by the Department of Health or the Department's authorized representative or by licensed medical personnel at a licensed facility designated by the attesting physician. The cost of the screening shall be borne by the employer.

5. In order to use the provisions of this Administrative Order, the person subjected to the significant exposure must also be screened for the same sexually transmittable diseases.

6. A person who receives the results of a test pursuant to this Administrative Order, which results disclose human immunodeficiency virus infection and are otherwise confidential pursuant to law, shall maintain the confidentiality of the information received and the identity of the person tested as required by section 381.004, Florida Statutes. Violation of this confidentiality may constitute a misdemeanor of the first degree, punishable as provided in section 775.082 or 775.083, Florida Statutes.

DONE AND ORDERED at Orlando, Florida, this 23rd day of June, 2015.

_____/s/_____
Frederick J. Lauten
Chief Judge

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