§ 2611. HIV written informed consent. (a) No insurer or its designee shall request or require an individual proposed for insurance coverage to be the subject of an HIV related test without receiving the written informed consent of such individual prior to such testing and without providing general information about AIDS and the transmission of HIV infection.

(b) Written informed consent to an HIV related test shall consist of a written authorization that is dated and includes at least the following:

(1) a general description of the test;

(2) a statement of the purpose of the test;

(3) a statement that a positive test result is an indication that the individual may develop AIDS and may wish to consider further independent testing;

(4) a statement that the individual may identify on the authorization form the person to whom the specific test results may be disclosed in the event of an adverse underwriting decision, which person may be the individual or a physician or other designee at the discretion of the individual proposed for insurance;

(5) the department of health's statewide toll-free telephone number that may be called for futher information about AIDS, the meaning of HIV related test results, and the availability and location of HIV related counseling services; and

(6) the signature of the applicant or individual proposed for insurance, or if such individual lacks capacity to consent, the signature of such other person authorized to consent for such individual.

(c) In the event that an insurer's adverse underwriting decision is based in whole or in part on the result of an HIV related test, the insurer shall notify the individual of the adverse underwriting decision and ask the individual to elect in writing, unless the individual has already done so, whether to have the specific HIV related test results disclosed directly to the individual or to such other person as the individual may designate. If the individual elects to receive the HIV related test results directly, the insurer shall advise the individual that he or she may call the department of health's statewide toll-free telephone number for further information about AIDS, the meaning of HIV related test results, and the availability and location of HIV related

counseling services and shall also advise such individual to consult with a physician about the meaning of and need for counseling, where appropriate, as to the HIV related test results.

(d) As used in this section, the following terms shall have the following meanings:

(1) "Adverse underwriting decision" means:

(A) a declination of insurance coverage as applied for; or

(B) an offer to issue insurance coverage at a higher than standard rate.

(2) "AIDS" means acquired immune deficiency syndrome, as may be defined from time to time by the centers for disease control of the United States public health service.

(3) "HIV infection" means infection with the human immunodeficiency virus or any other related virus identified as a probable causative agent of AIDS.

(4) "HIV related test" means any laboratory test or series of tests for any virus, antibody, antigen or etiologic agent whatsoever thought to cause or to indicate the presence of AIDS.

(e) Any person who violates this section shall be subject to the provisions of article twenty-four of this chapter.

(f) Nothing in this section shall be construed to create, impair, alter, limit, modify, enlarge, abrogate or restrict the specific authority of the department to allow or prohibit the use of HIV related tests or the consideration of HIV related test results for insurance coverage purposes.