AIDS testing law causing problems

Civil liability worrying doctors and costs are driving couples out of state

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Louisiana’s premarital “AIDS” screening law, in force less than two months, continues to draw criticism from many in the medical community on grounds that it requires mandatory testing of a population considered at least risk.

Debate over the law is heating up for the upcoming session of the Legislature. Several medical groups say they want the law repealed or modified to curtail enforcement problems and lessen the likelihood of litigation against physicians and laboratories testing couples.

A spot check with several parish clerks of court showed lower than normal marriage license applications, confusion over interpretation and dispersity in enforcement of the new law.

In contrast, calls to county clerks in neighboring Mississippi, Arkansas and Texas — where marriage license requirements are less stringent — showed increasing numbers of Louisiana couples seeking to get married out of state.

In most cases, according to the clerks, Louisiana couples said they left the state to avoid high costs for the required HIV antibody screening or because they felt such testing was unnecessary. They quoted Louisiana couples as saying testing and physician examination costs range from $100 to as high as $300 per couple.

Many couples from the Shreveport-Bossier City area traditionally have traveled the short distance to what has been called the “mini-Las Vegas of the South” — Marshall, Texas — to be married. However, Betty Duncan, chief deputy clerk in the Harrison County Courthouse there, said even more Louisiana couples are seeking licenses in Marshall since Louisiana’s new law went into effect Jan. 1.

None of the county clerks interviewed complained about the increase in business, but several Louisiana clerks of court employees said parishes and the state will lose tens of thousands of dollars annually in marriage license fees.

Medical community representatives say they oppose the new premarital testing requirements because of needless testing of low-risk groups, placing unnecessary financial burdens on the costs of HIV antibody screening on couples, and inadequate measures to ensure confidentiality of test results.

Many medical experts say mandatory premarital testing will detect only one-tenth of 1 percent of HIV-infected individuals, some individuals will not be detected by the screening, and there will be false positives reported.

The only once benefiting from this are salesmen who sell the (HIV antibody) testing kits. This offers the most glaring insight into how some ill-planned health legislation gets passed,” said Dr. Brubson Lutz, director of the New Orleans Department of Health.

Current requirements for a Louisiana marriage license now include that both parties be 18 or older and have parental consent for those under 18; that the license be issued in the parish where the marriage ceremony is to be held; a certified copy of a birth certificate for both; a signed physician’s statement that both have been examined within 10 days prior to application for a license and have been found to be free from venereal diseases; that testing be done “for the detection of acquired immunodeficiency syndrome (AIDS) antibodies”; that a notarized affidavit be presented in the event of a positive “AIDS” test result stating a physician has informed both parties about the results and counseled them on the AIDS syndrome.

Once the marriage license is issued, there is a 72-hour waiting period and it is valid for 90 days. The fee is $25.

Former state representatives Evelyn Blackmon from Monroe and Jewell Newman of Baton Rouge were strong proponents of the new testing requirement as was Rep. Wilford Carter of Lake Charles.
Blackmon, who was defeated last fall in her bid for re-election, said she believes the debate over costs of HIV antibody screening is being blown out of proportion. She maintained that if the test is given a fair chance, and “it’s found these people (low-risk couples) are not carrying AIDS, it can be done away with.”

Newman, also defeated last fall, said the benefits of testing couples outweigh any costs “if we save one life.”

Both said that despite testimony by medical personnel against the testing measure, it still was necessary to begin testing for the virus in the state.

“They (state and private medical personnel) just want to educate people” and not test for the virus, Blackmon said.

Newman emphasized protecting unborn children from exposure to the AIDS virus, and said testing is needed to halt the spread of AIDS.

Carter, whose proposal to place the burden of testing costs on couples was passed by the Legislature, did not return telephone calls.

Rep. Raymond Jetson of Baton Rouge, who voted against AIDS testing measures, said he believes paranoia about AIDS, and perhaps a desire to be seen as “public minded” during an election year, contributed to the passage of the legislation last year.

“They were ignoring all the folks who were experts in the medical field who were saying that before mandatory testing, we should go to educating people on AIDS,” Jeton said. “The heterosexual folks, who are the folks getting married, are at lowest risk. And the cost factor is high. I have people telling me it’s costing $12 to get tested and be checked by a doctor. It’s ridiculous. It’s just paranoia, period, exclamation point.”

Actual costs for HIV screening vary across the state, according to Dr. George Q. Mills, a nuclear medicine physician and director of the Our Lake of the Lake Blood Center in Baton Rouge.

He said the testing kit used costs an average of $15. The OLOL lab charges $45 for the test, which includes overhead costs for technicians, lab and clerical work.

The Community Blood Center does not charge for HIV screening if both parties donate blood, and otherwise charges $12 per person for screening, said Jeannine Bergeron, a center spokesperson.

Other blood centers or hospital blood banks may not charge for screening if blood is donated, or charge an average of $15 each for HIV screening, Mills said.

However, Mills and Bergeron stressed that test results only are released to physicians, and couples