



HIV PREVENTION COUNSELING: THE FACTS

Legal Overview

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CDC Testing Recommendations

- The old standard of care used to be only test those considered to be just for high-risk individuals
- In 2006 CDC revised their HIV testing recommendations and changed it to everyone between the ages 13-64 should be tested
 - All pregnant women, especially those in 3rd trimester
 - Notification prior to testing & opt-out screening
- In 2008 VA adopted the “opt-out” screening process
 - Patient must be given testing information and notification of test and patient can opt out



CDC Testing Recommendations: Consent

- A written consent form is not required, up to agency to decide
 - A general medical consent is sufficient for some agencies
- Clinicians must document if patient declines an HIV test
- Practitioners must inform pregnant women that testing is recommended and they will receive a test unless declined.



CDC Testing Recommendations: Consent

CTR Form ID Number _____

HIV Information and Testing Agreement

Testing provided by Inova Juniper Program is voluntary. By signing this form, you agree to take a test that will show if you have antigen or antibodies for HIV, the virus that causes AIDS. Every copy of HIV has antigen inside. Your body reacts to the antigen by making HIV antibodies. If you have either antigen or antibodies for HIV, you are likely infected. HIV antigen can be detected before HIV antibodies, so the test may find one and not the other.

People get HIV most often by having unprotected sex or sharing needles/syringes with an infected person. If you may have been exposed to HIV in the past two weeks, it is recommended that you test again in one month regardless of your test result. People who often engage in high-risk behavior should test every three months and consider taking Pre-Exposure Prophylaxis, a daily pill that can prevent HIV.

Like a number of other communicable diseases, HIV is a reportable condition in the state of Virginia. This means that if you are diagnosed with HIV, your name and contact information will be reported to the Virginia Department of Health. The health department will protect your identity and your records.

If you are diagnosed with HIV, Inova Juniper Program or the health department will help you access medical care. Receiving HIV-specific treatment is important to protecting your health. With medical care, most people with HIV can have a normal lifespan. Proper HIV medical treatment can also make it impossible for an infected person to pass the virus to someone else.

What Kind of Test Will Be Done?

You are receiving a **rapid test**. Rapid tests are simple and accurate when performed at point-of-care by personnel trained to follow manufacturer's instructions. Your test counselor has been specially trained to conduct your HIV test, and will use a fingerstick lancet to collect a blood specimen. The results of your rapid test will be ready in about 15 minutes.

What does my Test Result Mean?

If your rapid HIV test is negative, no antigen or antibodies for HIV were found. However if you had unprotected sex or shared needles/syringes in the past two weeks, there is a chance that you may be in the "window period". This means that you may be infected, but it may be too early for the test to detect any antigen or antibodies in your blood, and you should be tested again in one month.

If your rapid test is reactive for HIV antigen or antibodies, you will need a confirmatory, or follow-up test, to verify the result of the first HIV test. By signing this form, you consent to have confirmatory testing done in order to establish an HIV diagnosis. Confirmatory testing will be provided by this agency, and will involve a different rapid test.

Signature: _____ Date: _____

Printed Name: _____

Date of Birth: _____

Juniper's walk-in HIV testing consent form



CDC Testing Recommendations: Testing Without Consent

Who can be tested without consent?

- Persons whose blood/body fluid is the source of an occupational exposure
 - Health care providers and patients
 - Good Samaritans
 - Law enforcement officers
 - School board employees
 - Prisoners (charged with sex crimes)
 - Patients in state mental hospitals
 - Military (tested every 2 years)



Providing HIV Results

- When providing negative results-
 - Face-to face disclosure is longer required
 - This can be done how your agency decides; face-to-face, over the phone, “no news is good news,” etc.
- When providing positive results-
 - Same goes, does not have to be face-to-face, however the client must be given the opportunity for face-to-face disclosure and appropriate counseling
 - And it’s up to them to decide if they want it or not



Confidentiality

- In Virginia, the HIV status of a person living with HIV may not be disclosed unless authorized by law
- Authorized Disclosures:
 - State and County Health Department, the CDC (for public health reporting)
 - Blood Donation agencies
 - Physicians MAY or MAY NOT disclose to parent/legal guardians
 - Physicians MAY or MAY NOT disclose to legal spouses
 - Physicians MUST disclose all positive results to Health Dept.



Confidentiality

- These laws only apply to "covered entities"
 - Hospitals, doctors, social service agencies, etc.
- There is no law regarding status disclosure being shared from friend, family member, co-worker, random person on the street
 - Now if the information was learned while a person is working with one of the covered entities & is off-duty or was working there, but no longer there; then HIPPA and confidentiality still apply



Minors

- Minors: (12 -17)
 - Can get STI/HIV testing without parent/legal guardian's consent
 - Can receive STI/HIV treatment without parent/legal guardian's consent
 - **Minors are encouraged to speak with parents**
 - Parents/legal guardian can request minor's test results, if they are aware of the test



Providing HIV Results - Scenario #1

Leigh goes to her doctor and confesses that she has had unsafe sex with a man she met on a recent business trip. Her doctor tests her for HIV, and the test shows that she is positive. The doctor urges Leigh to tell her husband, Bob, but Leigh refuses. The doctor considers telling Bob himself, but decides not to, since he is afraid that Leigh will no longer trust him and may not seek medical treatment for her HIV. The doctor decides to continue advising Leigh to tell her husband. Some months later, Bob becomes HIV positive and sues Leigh's doctor for not warning him that his wife is HIV positive.



Providing HIV Results - Scenario #2

For the last 18 months Derek has been in a relationship with Tia.

They are expecting a baby in two months. Before this relationship, Derek had a series of sexual partners. Derek is seen

at the local health department by Dr. Hunt, who recently informed Derek that he is HIV positive. Dr. Hunt counsels Derek to contact his sexual partners to inform them of his status. On a subsequent visit to the clinic, it becomes clear to Dr. Hunt that

Derek has not told Tia of his status. Dr. Hunt is aware of the impending arrival of their baby and tells Derek that steps should be taken to assess whether Tia is positive and whether the baby is at risk. Derek adamantly refuses to tell Tia and says that if she is told without his consent then he will drop out of treatment.



Providing HIV Results - Scenario #3

Terri and her husband are both HIV positive. Last week, her son's ex-girlfriend, Marta, posted pictures of Terri and her husband on Facebook. Marta captioned the pictures with language that said it was her "civic duty" to inform everyone that Terri and her husband have HIV and are threats to society. Terri has never met Marta or even spoken to her. She is aware, however, that Marta and her son were dating and had a messy breakup.



Criminalization

In VA, a person is required to disclose their HIV status...even if it's protected sex

- **Class 1 Misdemeanor:** Engaging in sexual intercourse, cunnilingus, fellatio or anal intercourse with another person without having previously disclosed the existence of their infection (HIV, Syphilis or Hepatitis B) to the other person
- **Class 6 Felony:** Engaging in sexual intercourse, cunnilingus, fellatio or anal intercourse with the **intent** to transmit HIV, Syphilis or Hepatitis B
- www.seroproject.com



Criminalization



NATIONAL CENTER FOR LESBIAN RIGHTS



MidAtlantic AIDS Education and Training Center - Contact Information

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