

New York State HIV Testing Law Update: May, 2014

Changes to Simplify HIV Testing Consent and Improve Linkage to Care

HIV TESTING CONSENT PROCESS	PROMOTING LINKAGE TO CARE
KEY POINT: Beginning April 1, 2014, New York State Public Health Law allows for streamlined oral patient consent to an HIV test. The law no longer requires that patient consent be obtained in writing, except in correctional facilities.* (see below)	KEY POINT: Beginning April 1, 2014, New York State Public Health Law allows for HIV-related information reported to the NYS Department of Health or a local department of health to be shared between authorized health department staff and medical providers treating the patient to promote linkage/ retention in health care.
WHAT IS DIFFERENT? HIV testing providers no longer need to obtain written consent to an HIV test via a general medical consent form or an HIV-specific consent form.	WHAT IS DIFFERENT? - Authorized state and local health department staff are permitted to use information obtained via the state HIV/AIDS case reporting system to follow-up with medical providers regarding linkage to care and retention in care. - Health departments can now work directly with providers to identify patients who may have fallen out of care. Such patients may be contacted by medical providers or health department staff to address barriers and promote engagement in care.
WHAT IS THE SAME? - HIV testing providers must inform patients prior to conducting an HIV-related test and must document every HIV test in the patient medical record. - Health care settings are still required to offer HIV testing as part of routine care for all persons aged 13-64 years. - Key points about HIV testing are provided in writing, verbally or by video before the test. - Patients may decline an HIV test. - Consent is durable until revoked.	WHAT IS THE SAME? - HIV-related information in medical records remains confidential and subject to both HIPAA and Article 27-F protections. - Provisions remain in place to prevent discrimination and inappropriate release of an individual's HIV status.
POST-TEST COUNSELING FOR INDIVIDUALS WITH CONFIRMED HIV INFECTION Post-test counseling for patients with HIV infection should: - Include the same key messages as in the past with an emphasis on the benefits of antiretroviral therapy (ART) and the importance of HIV viral suppression. - Explain that if a person with HIV appears to have fallen out of care, he or she may be contacted by the medical provider or health department staff to address barriers to entry into care and promote engagement in care.	
* KEY POINT: EXCEPTION FOR CORRECTIONAL FACILITIES Written informed consent is required when HIV testing is performed in state and local prisons or jails.	

IMPLEMENTATION OF THESE UPDATES

Providers are encouraged to begin implementing streamlined oral patient consent for HIV testing and to continue the practice of documenting each HIV test in the patient's medical record. The NYSDOH will develop regulations regarding these updates to the law. Providers and consumers will have an opportunity to offer comments as the regulations are being drafted. The NYSDOH will update consumer and provider education materials related to HIV testing. To access updated information and materials, please visit: <http://www.health.ny.gov/diseases/aids/providers/testing/>. Questions about the 2014 HIV Testing Update may be sent to HIVtestlaw@notes.health.state.ny.us