

Changes to the New York HIV Testing law – Effective September 2010

The following changes to the New York State HIV testing law made testing more readily available. Key provisions include:

- Primary care providers, inpatient hospitals and emergency departments are required to offer testing;
- Prior to consent for testing, the person ordering the test will discuss with the patient seven key points of information (see below);
- Post-test messages are tailored to the patient's status;
- Negative post-test messages must emphasize identified risk behaviors;
- If the test is positive, the ordering provider must arrange for follow-up care (if the patient consents);
- Informed consent has been simplified - it can be part of a general consent for treatment;
- Documented oral consent is acceptable for a rapid HIV test;
- Patients can still decline consent for HIV testing.

See http://www.health.ny.gov/diseases/aids/testing/law/docs/slide_presentation.pdf for a presentation on these changes.

Persons being asked to consent to HIV testing must be provided the following seven key points of information:

- HIV is the virus that causes AIDS and can be transmitted through: unprotected sex (vaginal, anal, or oral sex) with someone who has HIV; contact with blood as in sharing needles (piercing, tattooing, drug equipment including needles); by HIV-infected pregnant women to their infants during pregnancy or delivery; or while breast feeding.
- There are treatments for HIV/AIDS that can help an individual stay healthy.
- Individuals with HIV/AIDS can adopt safe practices to protect uninfected persons from acquiring HIV and infected people from acquiring additional strains of HIV.

- Testing is voluntary and can be done anonymously at a public testing center.
- The law protects the confidentiality of HIV test results and other related information.
- The law prohibits discrimination based on an individual's HIV status and services are available to help with such consequences.
- Consent for HIV related testing remains in effect until it is withdrawn verbally or in writing. If the consent was given for a specific period of time, it remains in effect for that time period only. In any case, persons may withdraw their consent at any time.

This information may be provided by the person ordering the test or through his representative (the representative can be a medical or non-medical person) through oral, written or electronic mechanisms with no formal pre-test counseling required. For adults not able to consent for themselves, the Family Health Care Decisions Act stipulates who is able to consent for care in a variety of circumstances.