



STATE OF MICHIGAN

DEPARTMENT OF COMMUNITY HEALTH
LANSING

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To: Michigan Health Care Providers

Subject: Mandatory changes for the ordering of HIV tests

Legislation enacted in December 2010 (PA 320 of 2010), provides for several mandatory changes to HIV testing procedures effective January 1, 2011, that will impact all practitioners and health facilities that order HIV testing for the purpose of diagnosing HIV. These changes are as follows:

Pretest information:

The following information must be provided to patients, either verbally or in writing, prior to ordering an HIV test:

- (a) An explanation of the test, including, but not limited to, the purpose of the test, the potential uses and limitations of the test, and the meaning of test results.
- (b) An explanation of how HIV is transmitted and how HIV can be prevented.
- (c) An explanation of the rights of the test subject, including, but not limited to, all of the following:
 - (i) The right to decline the test at any time before the administration of the test and the circumstances under which the test subject does not have the right to decline the test.
 - (ii) The right to confidentiality of the test results under this part and under the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.
 - (iii) The right under this part to consent to and participate in the test on an anonymous basis.
 - (iv) The person or class of persons to whom the test results may be disclosed under this part and under the health insurance portability and accountability act of 1996, Public Law 104-191.

A brochure that contains the required pretest information is available on the Michigan Department of Community Health website (www.michigan.gov/hivstd). Click on the HIV link and then go to *Brochures* to find a copy of "What You Need to Know About HIV Testing." Copies of the required pretest information are also available upon request by contacting 517 241-5900.

Consent

After receiving the required pretest information, a patient may decline an offer for HIV testing. Written consent on a separate form is no longer required, but may still be used if preferred. A sample consent form may be downloaded at www.michigan.gov/hivstd. Click on the HIV link and then go to *Forms*. Also, consent may be incorporated into the general consent for medical care process. Otherwise, verbal consent will suffice.

Documentation in the medical record:

Both provisions of the required pretest information and whether the patient declined or agreed to HIV testing must be documented and maintained in the patient's medical record.

Test results:

In addition to the existing requirement to inform patients of positive HIV results and provide appropriate counseling, there is a new requirement to inform patients of negative HIV test results through normal health care provider procedures which may include patient visits, mail, or telephone communication.