

## **What You Need to Know About Illinois Law To Conduct Voluntary HIV Testing**

### **Brief Overview for Clinicians<sup>1</sup>**

#### **Written Informed Consent**

Illinois requires healthcare providers to obtain written, informed consent before administering voluntary HIV testing:

- The patient must document that informed consent has been granted with his/her signature.
- The consent form must address HIV testing *specifically*.
- Specific consent for HIV testing may be included on the same form as general consent for healthcare.
- Examples of specific consent language:
  - "I am informed of and accept voluntary HIV testing."
  - "Unless I have declined HIV testing in the option provided above, I understand that I will receive voluntary HIV testing."

#### **Required Pre-Test Information**

Illinois requires healthcare providers to make available the following pre-test information to individuals offered voluntary HIV testing:

- Meaning of test results include its purpose, potential uses, and limitations
- Voluntary nature of the test and the right to withdraw consent at any time
- Right to anonymous testing and confidentiality
- If appropriate, availability of additional or confirmatory testing
- If appropriate, availability of referrals for further information or counseling

Note: The law requires healthcare providers to counsel their pregnant patients about HIV and recommend voluntary HIV testing. Additional pre-test information is required.

For more information, see: [www.aidschicago.org/pdf/2006/adv\\_perinatal\\_factsheet.pdf](http://www.aidschicago.org/pdf/2006/adv_perinatal_factsheet.pdf)

#### **Age of Consent**

In Illinois, anyone 12 or older can receive and consent to HIV testing without having to tell parents or guardians.

#### **Confidentiality**

Illinois prohibits any person from disclosing the HIV-positive status of anyone else without that individual's explicit permission. This applies to healthcare professionals diagnosing case of HIV infection. Without the patient's consent, a healthcare provider **may not** disclose a patient's status to his/her roommate, employer, landlord, or family members.

The only sexual partner a doctor is allowed to notify about a patient's HIV-positive test result is the person's legal husband or wife, and then only after the patient has been given a chance to do so him/herself. However, a medical professional is **not required** to make such notification.

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## **Case Reporting**

Illinois requires all medical providers to complete individual and name-based surveillance case report forms for each individual for whom either HIV or AIDS is diagnosed.

## **Exceptions to Consent and Pre-Test Information Requirements**

Written informed consent and pre-testing information are not required when, in the judgment of the treating physician, such testing is medically indicated (i.e., cases where obtaining consent is difficult or impossible and HIV disease is suspected based on clinical indicators).

State law allows HIV testing without consent in a few circumstances:

- Individuals involved in a blood or other bodily fluid exposure with a healthcare worker, police officer, or paramedic
- Individuals convicted of a sex crime
- Newborns whose mother's HIV status is undocumented

## **Other Elements of High-Quality Clinical Care**

Other activities widely considered part of high-quality HIV screening and treatment programs are not specified in state law but ought to be adopted in clinical settings:

- Deliver HIV-positive test results in person and counsel patients about risk-reduction and clinical management for HIV
- Help newly diagnosed individuals access counseling, HIV-specialty healthcare, and appropriate support services
- Utilize skilled interpreters where appropriate and do not rely on family members to serve as interpreters
- Offer patients written HIV information and allow patients an opportunity to ask questions

## Reference and Resources:

Illinois Confidentiality Act:

[www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=1550&ChapAct=410%26nbsp%3BILCS%26nbsp%3B305%2F&ChapterID=35&ChapterName=PUBLIC+HEALTH&ActName=AIDS+Confidentiality+Act%2E](http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=1550&ChapAct=410%26nbsp%3BILCS%26nbsp%3B305%2F&ChapterID=35&ChapterName=PUBLIC+HEALTH&ActName=AIDS+Confidentiality+Act%2E)

Illinois HIV/AIDS Confidentiality and Testing Code: <http://ilga.gov/commission/jcar/admincode/077/07700697sections.html>

HIV Testing in Illinois, Detailed Chart: [www.aidschicago.org/pdf/2006/prev\\_laws\\_and\\_regs\\_chart.pdf](http://www.aidschicago.org/pdf/2006/prev_laws_and_regs_chart.pdf)

Illinois Department of Public Health: [www.idph.state.il.us](http://www.idph.state.il.us)

AIDS Legal Council of Chicago: [www.aidslegal.com](http://www.aidslegal.com)

AIDS Foundation of Chicago: [www.aidschicago.org/prevention/news.php](http://www.aidschicago.org/prevention/news.php)

Pregnant Women and Newborns: [www.aidschicago.org/advocacy/perinatal.php](http://www.aidschicago.org/advocacy/perinatal.php)

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<sup>i</sup> This fact sheet is designed to provide legal information. No portion of this fact sheet constitutes legal advice. Specific legal questions should be directed to legal counsel.

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