



Frequently Asked Questions About HIV Testing by Medical Care Providers in Health Care Settings

- 1) What does a medical care provider have to do in order to provide an HIV test to a patient?

Per California Health and Safety (H&S) Code Section 120990 (a), a medical care provider must:

- a) Inform the patient that an HIV test is planned;
- b) Provide information about the test;
- c) Inform the patient of the many treatment options available to people who test HIV positive;
- d) Inform the patient that a person who tests HIV negative should continue to be routinely tested for HIV; and
- e) Inform the patient he or she has the right to decline the test.

An information sheet with all of the required information is available at the California Department of Public Health (CDPH) Web site at:

www.cdph.ca.gov/pubsforms/forms/Pages/AIDS.aspx.

- 2) Is the law different if the patient is a pregnant woman?

According to H&S Code Section 125090(c) and (d), a pregnant woman receiving an HIV test must receive additional information about HIV testing. Information sheets in several languages are available at CDPH's Web site at:

www.cdph.ca.gov/pubsforms/forms/Pages/AIDS.aspx.

- 3) How is the oral consent procedure different from "informed consent"?

Prior to Assembly Bill (AB) 682, H&S Code Section 120990 required physicians to obtain a patient's informed consent before giving an HIV test. AB 682 repealed that language because specific informed consent proved to be a barrier to routine screening for HIV and replaced it with a list of information that must be provided to a patient before a medical care provider may order an HIV test (see Question No. 1 above for list). Medical care providers may provide additional information to the patient as they deem appropriate.

- 4) What does AB 682 mean by “medical care provider”?

According to H&S Code Section 109278, medical care provider is defined as “a health care professional ...providing medical care within his or her lawful scope of practice.”

- 5) Do medical care providers need to have special training to provide pre- or post-HIV test counseling?

No. Medical care providers working within their lawful scope of practice do not need any additional training to provide HIV testing or HIV test results.

- 6) Does AB 682 mean that medical care providers must give a patient an HIV test?

No. Medical providers are not required to provide a person with an HIV test. However, it is expected that since written consent is no longer required, more HIV testing will be performed in medical settings. This practice will enable patients to know their HIV status earlier and for those who test HIV positive to obtain appropriate HIV care and treatment.

- 7) What if a patient requests an HIV test? Is anything different?

If a patient independently requests an HIV test, then the information listed in H&S Code Section 120990(a) (see Question No. 1 above for list) does not have to be provided. [H&S Code Section 120990(b).]

- 8) Does the medical care provider have to document the patient’s decision about HIV testing?

H&S Code Section 120990(a) only requires that medical care providers note in the patient’s medical file if the patient declines HIV testing.

- 9) If a pregnant woman declines an HIV test, is the medical care provider required to note that fact in her medical file?

Yes. H&S Code Section 120990(a) requires medical care providers to note in a patient’s medical file if the patient declines an HIV test. The requirement applies to all patients, including pregnant women.