



California
Department of
Health Services

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State of California—Health and Human Services Agency
Department of Health Services



ARNOLD SCHWARZENEGGER
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January 10, 2007

**TO: PUBLIC HEALTH OFFICERS
CALIFORNIA CONFERENCE OF LOCAL AIDS DIRECTORS
HIV EDUCATION AND PREVENTION COORDINATORS
HIV COUNSELING AND TESTING COORDINATORS
SEXUALLY TRANSMITTED DISEASE COORDINATORS AND
MATERNAL, CHILD, AND ADOLESCENT HEALTH DIRECTORS**

**SUBJECT: CENTERS FOR DISEASE CONTROL AND PREVENTION'S REVISED
RECOMMENDATIONS FOR HIV TESTING OF ADULTS,
ADOLESCENTS, AND PREGNANT WOMEN IN HEALTH CARE
SETTINGS**

The purpose of this letter is to provide guidance regarding the Centers for Disease Control and Prevention's (CDC) recently released "Revised Recommendations for HIV Testing of Adults, Adolescents, and Pregnant Women in Health Care Settings" in the Morbidity and Mortality Weekly Report of September 22, 2006, at www.cdc.gov/mmwr.

The California Department of Health Services, Office of AIDS (CDHS/OA), supports CDC's efforts to increase HIV testing in routine medical care or urgent care settings throughout the United States. The new CDC recommendations are primarily designed to normalize routine HIV testing to obtain more desirable health and HIV prevention outcomes in medical settings. These recommendations do not impact non-clinical settings. In general, the new CDC effort does not impact HIV testing in the majority of OA-funded HIV counseling and testing (C&T) sites, since our program is primarily conducted in mobile vans, community-based organizations, and other non-medical care settings designed to provide anonymous or confidential HIV tests and prevention interventions.

The new CDC recommendations highlight steps that the federal government recommends be taken to facilitate the discovery of HIV-positive people in health care settings. While most of the recommendations can be implemented in California without interfering with state statutes, some exceptions do occur. A summary of a few of CDC recommendations and their impact in California are as follows:

- *Incorporation of consent for an HIV test into a general medical consent form. Separate written consent for HIV testing is not recommended.*
 - In California, except in the case of a treating physician and surgeon, state law requires specific written consent for HIV testing; a general consent for medical care is not sufficient. Treating physicians and surgeons may obtain informed (oral or written) consent, but still must obtain the specific consent to test for HIV. Refer to Health and Safety (H&S) Code Section 120990.
- *Opt-out HIV screening (defined by CDC as notification to the patient that HIV testing will be performed unless the patient declines. Notification should include an explanation of HIV infection and the meaning of positive and negative test results).*
 - This option is not possible in California due to the requirements of H&S Code Section 120990.
- *HIV testing of people at high risk for HIV infection at least once a year.*
 - Neither California law, nor OA guidance mandates the number of times a person should be tested for HIV. Therefore, this CDC recommendation may be implemented as deemed appropriate by the health care provider and the patient.
- *Prevention counseling should not be required with HIV diagnostic testing or as part of HIV screening programs in health care settings.*
 - California law does not require HIV prevention counseling except in two circumstances: (1) H&S Code Section 121015 requires referral for HIV counseling during partner notification, and (2) H&S Code Section 125090 requires that anyone engaged in prenatal care of a pregnant woman or attending a woman at the time of labor, delivery, or postpartum care ensure that she is offered an HIV test, and receives HIV information and counseling, as appropriate.

- OA-funded HIV C&T sites currently require a face-to-face counseling session to obtain reimbursement from OA for HIV testing. OA targets high-risk individuals and believes that counseling along with testing for this population presents a unique opportunity to offer an HIV prevention intervention and, if the client is HIV positive, to link her/him rapidly to HIV specialty medical care and treatment. However, we are in process of piloting a program that will allow OA-funded HIV testing sites to test people who perceive themselves to be at low risk for HIV, and provide these people with prevention materials which may not include a face-to-face session with a counselor. It is our hope that this will enable us to discover more people who are HIV positive and link them to care, as well as to refocus our counseling and behavior-change efforts toward individuals who are at highest risk of acquiring or transmitting HIV.
- *Inclusion of HIV screening in the routine panel of prenatal screening tests for all pregnant women, unless the patient declines (opt-out screening).*
 - California law partially aligns with this recommendation. H&S Code Section 125085 requires the blood specimen of a pregnant woman be tested for HIV as part of the routine panel of prenatal tests, and that the woman be informed of the intent to perform the test. The woman must sign a specific form agreeing to the test, and the form must be kept as part of the medical record.
- *When the mother's HIV status is unknown postpartum, CDC recommends rapid testing of the newborn as soon as possible after birth so anti-retroviral treatment can be offered to HIV-exposed infants. Women should be informed that identifying HIV antibodies in the newborn indicates that the mother is infected.*
 - As previously mentioned, California law requires specific consent prior to an HIV test. In the case of a minor under 12 years of age, or when the subject is not competent to give consent, H&S Code Section 121020 states that written consent for the test may be obtained from the subject's parents, guardians, conservators, or other person lawfully authorized to make health care decisions for the subject.

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OA estimates that 42,000 to 53,000 Californians are infected with HIV but remain unaware of their health status. An unacceptable number of people receive an HIV diagnosis at the same time or shortly before learning that they have AIDS. It is critical that people who are HIV positive learn of their status in time to be referred to appropriate medical care and to preclude their transmitting HIV to others.

While CDHS/OA continues to emphasize a high-risk HIV testing strategy and will reimburse accordingly, we strongly encourage private medical providers, hospitals, county clinics, and other medical settings to adopt CDC's expanded HIV testing recommendations where possible. The evidence is clear that early detection of HIV will result in better individual health outcomes and the potential for a reduction in new cases of HIV because research indicates that an HIV diagnosis impacts behavior.

If you wish to find specific text for California statute referenced in this letter, you may wish to refer to the following website: www.leginfo.ca.gov, which will enable you to view the entire text of the laws. If you have questions about CDC recommendations, or CDHS/OA pilot project, please contact Brian Lew, Chief, HIV Counseling, Testing, and Training Section, OA, at blew@dhs.ca.gov.

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