



RON CHAPMAN, MD, MPH
Director & State Health Officer

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



EDMUND G. BROWN JR.
Governor

**Assembly Bill 446 – HIV Testing Requirements
Key Provisions for HIV Test Counselors
June 2014**

Effective January 1, 2014, [Assembly Bill \(AB\) 446](#) (Mitchell, Chapter 589, Statutes of 2013) adds HIV testing requirements in California [Health and Safety Code \(HSC\) Section 120990](#) for both health care and non-health care settings. This Office of AIDS (OA) fact sheet outlines the key changes for HIV testing in HIV counseling and testing (C&T) sites. OA has issued separate AB 446 guidance for health care settings.

Prior to AB 446: HSC required written consent for HIV testing in HIV C&T sites, whereas written consent is not required for HIV testing in healthcare settings. On September 28, 2008, OA released a letter announcing the elimination of the written consent requirement for medical care providers ordering HIV tests.

Below are new 2014 requirements for **HIV test counselors** who are authorized to perform CLIA-waived HIV tests per [HSC 120917](#).

Under the provisions of AB 446:

- **Written consent is no longer required at C&T sites.**
 - When an individual independently requests a HIV test from a HIV C&T site written consent is not required. The individual's oral request for the HIV test must be documented by the HIV test counselors. [HSC Section 120990 \(d\)](#). Although written consent is no longer required, it is not prohibited if a test site deems it to be an appropriate form of consent.
 - This new law requires that HIV test counselors provide the same information to individuals that medical care providers must provide to patients. HIV test counselors are now required to provide information about the test, inform their clients that there are numerous treatment options available for a person who tests positive for HIV and that a person who tests negative for HIV should be routinely tested. [HSC Section 120990 \(d\)](#).

New requirements when providing HIV test results to C&T clients:

- **Providing counseling and information:**
 - After the results of an HIV test have been received, HIV test counselors must ensure that clients receive timely information and counseling to explain the results and the implications for the person's health. [HSC Section 120990 \(h\)](#).
- **Providing positive HIV test results:**
 - If a client tests positive for HIV infection, the HIV test counselor must inform the client that there are numerous treatment options available and identify follow-up testing and care that may be recommended, including contact information for medical and psychological services. [HSC Section 120990 \(h\)](#).
- **Providing negative HIV test results:**
 - If a client tests negative for HIV infection and is known to be at high risk for HIV infection, the HIV test counselor must advise the client of the need for periodic retesting, explain the limitations of current testing technology and the current window period for verification of results, and may offer prevention counseling or a referral to prevention counseling. [HSC Section 120990 \(h\)](#).

An example of a description of the window period associated with HIV test results is:

If your test is negative, and your possible exposure to HIV was recent, you may need another HIV test. When a person becomes infected with HIV, the body takes time to develop enough HIV or its antibodies or antigens to show up on a test, and the HIV test does not become positive right away. The time it takes between infection and a positive test is referred to as the window period.

The length of the window period is different for each HIV test methodology. Please consult with the laboratory processing the test or refer to the test manufacturer for specific window period information.

Related Information

- [AB 446 \(Mitchell, Chapter 589, Statutes of 2013\) full text](#)
- For more information, contact Matthew Willis, HIV Targeted Testing Specialist, HIV Prevention Program Section, OA, by phone at (916) 449-5797 or by e-mail at: Matthew.Willis@cdph.ca.gov.