



Streamlining HIV testing under Pennsylvania Act 148

Summary

- Written consent can be included in a general consent for medical treatment, provided that the consent for testing is clear and explicit
- Prior to testing, information about the test can be provided in writing – in many cases, actual counseling of patients is not necessary
- When giving results to patients, providers need only provide routine information and referrals, consistent with sound medical practices that are already widely utilized – test results need to be provided in person, but this is consistent with current practice using rapid HIV tests

What Act 148 Does Not Require

- Separate written consent forms limited only to the consent for HIV testing – instead, consent for an HIV test can be included in general consent for medical treatment forms signed by patients
- Pre-test counseling – instead, information about the test can be provided in written form, but a counseling session need not be provided for every patient
- Availability of physicians or trained HIV counselors to counsel patients either before or after testing – in fact, there is no requirement that a physician be on-site at locations where HIV testing is offered
- Extensive post-test counseling – instead, providers must simply provide routine information and referrals, as appropriate to the patient, when test results are provided

What Act 148 Does Require

Compliance with Pennsylvania's Confidentiality of HIV-Related Information Act (Act 148) is perceived as presenting significant barriers to testing, in reality, Act 148 imposes no such restrictions. HIV testing can be undertaken on a streamlined basis, while still complying with Act 148's informed consent requirements.

Consent for testing. Act 148 imposes very few specific requirements prior to testing. First, "informed written consent" of the patient must be obtained. Although many providers may use a specific stand-alone HIV consent document, there is no reason that the HIV consent cannot be included in a general consent for medical treatment form, provided the consent is

explicitly and clearly set forth. Of course, any forms used for obtaining consent of patients for HIV testing must be intelligible to the patient, and patients need to be aware that they will be tested.

Pre-test counseling. Act 148's pre-test counseling provision does not require that counseling must take place, but instead only that patients receive an "explanation of the test, including its purpose, potential uses, limitations and the meaning of its results." This explanation concerning the test could be provided orally or could be included in the consent form signed by the patient. Act 148 also requires that information regarding "measures for the prevention of, exposure to and transmission of HIV" are available to the patient. Again, this could be accomplished by provision of written or video materials, and Act 148 also seems to take into account that some patients may decline such information, particularly if they are already familiar with HIV prevention, exposure, and transmission information.

Notifying patients of test results. Act 148 requires patients be informed of both positive and negative HIV test results. Test results, whether positive or negative, should be provided to patients "face-to-face" – including the opportunity for individual, fact-to-face counseling about: the significance of the results, measures to prevent HIV transmission, and the benefits of contact tracing regarding any individual that may have exposed the patient to HIV. Additionally, for patients who test positive, the post-test counseling must provide referrals for appropriate health care services, including mental health care, as well as appropriate social and support services. Referrals to local health care providers, as well as to local AIDS service organizations providing case management services are adequate to fulfill this requirement. Also, patients who test positive must be informed about the benefit of contact tracing services in regard to any individual that the patient may have exposed to HIV. This is the full extent of post-test information that must be provided to patients.

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