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



ARNOLD SCHWARZENEGGER
Governor

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TO: ALL FACILITIES
CALIFORNIA CONFERENCE OF LOCAL HEALTH OFFICERS
CALIFORNIA CONFERENCE OF LOCAL AIDS DIRECTORS
CALIFORNIA MEDICAL ASSOCIATION
AMERICAN ASSOCIATION OF HIV MEDICINE
MATERNAL CHILD ADOLESCENT HEALTH DIRECTORS
CALIFORNIA FAMILY HEALTH COUNCIL
CALIFORNIA PRIMARY CARE ASSOCIATION
CALIFORNIA APIC COORDINATING COUNCIL
CALIFORNIA AMERICAN COLLEGE OF EMERGENCY PHYSICIANS
CALIFORNIA ASSOCIATION OF HEALTH PLANS

SUBJECT: CALIFORNIA DEPARTMENT OF PUBLIC HEALTH SUPPORT OF
ROUTINE HIV SCREENING IN MEDICAL SETTINGS; INFORMATION
REGARDING RECENT RELEVANT CHANGES TO CALIFORNIA LAW;
AVAILABLE RESOURCES TO SUPPORT INCREASED HIV TESTING IN
MEDICAL SETTINGS

Background

HIV infection and AIDS remain among the leading causes of illness and death in the United States. There are an estimated 56,000 new infections annually in the United States and over one-fifth (21 percent) of individuals living with HIV infection are estimated to be unaware of their HIV status. The California Department of Public Health (CDPH), Center for Infectious Diseases, Office of AIDS (OA), estimates that 5,000-7,000 new infections occur in California each year.

As of December 31, 2008, 187,300 HIV and AIDS cases have been reported in California; 86,964 of these individuals have died. While survival rates have increased due to improved treatment, little progress has been made in increasing early diagnosis. Approximately 40 percent of people test late in their HIV infection and progress to AIDS within one year of an HIV diagnosis. Persons who test late in the course of their infection are more likely to be African American or Hispanic. Additionally, 87 percent of

persons who test late received their first HIV-positive test result at an acute or referral medical care setting, and 65 percent were tested for HIV because of illnesses that led to an AIDS diagnosis.

Perinatal HIV transmission also continues, primarily among women who lack prenatal care or who were not provided the opportunity for an HIV test during pregnancy. A substantial proportion of the perinatal HIV infections in the United States each year can be attributed to the lack of timely HIV testing and treatment of pregnant women. Perinatal transmission rates can be reduced from approximately 25 percent without treatment to below 2 percent with universal screening of pregnant women in combination with prophylactic administration of antiretroviral drugs, scheduled cesarean delivery when indicated, and avoidance of breast feeding.

2006 Centers for Disease Control and Prevention (CDC) Guidelines

In 2006, CDC issued “Revised Recommendations for HIV Testing for Adults, Adolescents, and Pregnant Women in Health Care Settings,” recommending routine HIV screening for people 13 to 64 years old who access care in a variety of medical settings. The objectives of these recommendations are: to increase HIV screening of patients, including pregnant women, in health care settings, increase access to care and treatment, and to reduce perinatal, sexual, and injection drug use-associated transmission of HIV in the United States. CDPH supports these recommendations to the extent that resources are available to implement them.

California Law

In California, two recent changes to HIV testing law have supported the effort to bring “opt-out” (routine offering with the option to decline to take an HIV test) HIV testing to the state’s health care facilities.

1. As of January 1, 2008, Assembly Bill (AB) 682 (Berg, Chapter 550, Statutes of 2007), added California Health and Safety (H&S) Code Section 120990 which eliminated the requirement for written consent for an HIV test when ordered by a medical care provider.

Medical care providers ordering HIV tests under H&S Code Section 120990(a) are not required to obtain written consent for an HIV test, nor are laboratories processing HIV tests ordered by medical care providers under H&S Code Section 120990(a) required to obtain either written or oral consent to process the ordered test. Furthermore:

Continued requirements for written consent under H&S Code Section 120990(c) refer to HIV testing provided and/or processed in non-medical settings (such as OA-funded confidential HIV test sites).

Instead of required written consent, H&S Code Section 120990(a) requires medical care providers to do the following before they order an HIV test:

- 1) Inform the patient that an HIV test is planned;
- 2) Provide information about the HIV test;
- 3) Inform the patient that there are numerous treatment options available for a patient who tests positive for HIV and that a person who tests negative for HIV should continue to be routinely tested;
- 5) Advise the patient that he or she has the right to decline the HIV test; and
- 6) If the patient declines the HIV test, document that fact in the patient's medical file.

AB 682 also amended H&S Code Section 125090 which eliminated the requirement for written consent for HIV testing for pregnant women. H&S Code Section 125090 states that if a woman does not have an HIV test documented in her prenatal record during prenatal care or at the time of labor and delivery, the physician and surgeon or other person engaged in the prenatal care or attending the woman shall ensure that the woman is informed about the:

- 1) Intent to perform an HIV test,
- 2) Routine nature of the test,
- 3) Purpose of the test,
- 4) Risks and benefits of the test,
- 5) Risk of transmission of HIV, that approved treatments are known to decrease the risk of perinatal transmission of HIV, and
- 6) Right to decline HIV testing.

If the woman verbally accepts testing, she must then receive an HIV test "by a method that will ensure the earliest possible results." Currently, there are six HIV tests available that can provide preliminary results within 20 minutes; therefore, hospitals should be able to provide rapid HIV testing in labor and delivery. If a woman receives appropriate HIV treatment during labor and delivery, she can decrease the chances of transmitting HIV to her infant by approximately one-half.

2. As of January 1, 2009, AB 1894 (Krekorian, Chapter 631, Statutes of 2008) added H&S Code Section 1367.46 and Insurance Code Section 101023.91 to require individual and group health care service plans and health insurers to provide coverage for testing for HIV in medical care settings regardless of whether the testing is related to the primary diagnosis. Insurance Code Section 10123.91 further states that reimbursement shall be provided according to the respective principles and policies of the health insurer. This statute does not cover reimbursement through all public funding.

IMPLEMENTATION RESOURCES

OA has assembled the following tools to assist in the implementation of these recommendations. In addition, OA can help you identify appropriate contacts in your local health department and community for care, treatment, support, and prevention services. For more information, please contact Sandy Simms, Chief, HIV Counseling, Testing, and Training Section, OA, at (916) 449-5538 or by e-mail at: Sandy.Simms@cdph.ca.gov.

Training and Technical Assistance

- The **Pacific AIDS Education and Training Center**, based at the University of California, San Francisco (UCSF), has 11 local implementation sites throughout California that can provide free training and technical assistance to health care facilities on implementation of CDC's HIV testing recommendations and H&S Code Section 120990. Based in medical schools and community-based organizations, the faculty of nurses, physicians, and program managers can help you address implementation challenges, train your staff, and develop necessary policies and procedures. For inquiries regarding training and technical assistance, please contact Michelle Kipper at (415) 597-8197 or michelle.kipper@ucsf.edu.
- The **California STD/HIV Prevention Training Center** (CA PTC) is funded by CDC and is a joint project of CDPH's Sexually Transmitted Disease (STD) Control Branch; University of California, Berkeley, School of Public Health; and UCSF School of Medicine. A new CA PTC training: *Testing for HIV Infection: A Curriculum for Medical Providers in California*, is available free of charge to medical providers and health professionals. The course explains changes in HIV testing as allowed under H&S Code Section 120990, differentiates between "opt-in" and "opt-out" HIV testing, describes pros and cons of traditional and rapid HIV testing, and outlines how to integrate routine HIV testing procedures into current practice. Participants also learn how to conduct a brief HIV risk assessment/risk-reduction session, and deliver HIV-negative and HIV-positive test results to patients. The training can be delivered in one-hour modules or as a single four-hour course. For more information, or to schedule training, please contact CA PTC at (510) 625-6000, or consult the CA PTC Web site at: www.stdhivtraining.org.

Telephone Consultation

- The **National HIV Telephone Consultation Service (Warmline)** at (800) 933-3413 provides free and confidential expert consultation on HIV testing and care, including test interpretation (specializing in rapid testing and indeterminate test results). They can also offer guidance for the initial steps in workup and initial management. The Warmline is available 6 a.m.-5 p.m., Pacific Standard Time, Monday-Friday.

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- The **National Perinatal HIV Consultation and Referral Service (Perinatal HIV Hotline)** at (888) 448-8765 provides around-the-clock advice on indications and interpretations of standard and rapid HIV testing in pregnancy, as well as consultation on antiretroviral use in pregnancy, labor and delivery, and the postpartum period. The Perinatal HIV Consultation and Referral Service also can link HIV-infected pregnant women with appropriate health care.

Local Health Department Contacts

The mission of the **California Conference of Local AIDS Directors (CCLAD)** is to improve the quality and scope of health programs for HIV prevention and HIV-positive persons by promoting standards of excellence throughout the state of California. CCLAD achieves this mission by serving as a leader in HIV/AIDS policy development, by enhancing partnerships with the California Conference of Local Health Officers (CCLHO) and OA, and by creating bridges between local health jurisdictions, statewide coalitions, community-based organizations, and other affiliate organizations. A contact list for CCLAD can be found at www.cclad.org. Please note that these AIDS directors have agreed to be contacted for local assistance with HIV testing and referrals for prevention as well as care, treatment, and support services. A comprehensive array of services, including life-saving medications, are available for people with and at risk for HIV infection in California (information about many of these is also available at the OA Web site: www.cdph.ca.gov/programs/AIDS).

Client Education Materials

The **California HIV/AIDS Clearinghouse (CAC)** is a repository and distribution resource center for culturally appropriate HIV/AIDS/STD/tuberculosis (TB)/hepatitis educational materials. CAC provides access to over 200 HIV/AIDS health education materials. The materials address health education, awareness, knowledge, and behavior change. Additional materials such as DVDs, books, and health publications are available for loan and technical assistance is provided through library services including specialized literature database searches. CAC can be reached toll free at (888) 611-4222 or www.hivinfo.org.

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Additional Materials and Comprehensive Guidance Documents

Health Research and Educational Trust (HRET), HIV Testing in Emergency Departments (EDs): A Practical Guide <http://edhivtestguide.org>. HRET has developed this guide for clinicians and administrators seeking to incorporate routine HIV testing in their EDs. This practical guide to different approaches, considerations, and resources for making HIV testing routine in ED care is based on site visits and interviews with leadership and staff in EDs and health departments that have successfully incorporated testing. You may choose to use this guide to navigate program design and resource allocation decisions as well as to inform policies and operational approaches to HIV testing in your ED.



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Office of AIDS

Enclosures

cc: Pacific AIDS Education and Training Center
California STD/HIV Prevention Training Center
National HIV Telephone Consultation Service

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Selected References:

CDC “Revised Recommendations for HIV Testing for Adults, Adolescents, and Pregnant Women in Health Care Settings”
www.cdc.gov/mmwr/pdf/rr/rr5514.pdf.

CDC: HIV Testing in Healthcare Settings
www.cdc.gov/hiv/topics/testing/healthcare.

OA’s Web site: HIV Testing in Health Care Settings
www.cdph.ca.gov/programs/AIDS/Pages/OAHIVTestHCS.aspx.

California H&S Code Section including 120990
<http://leginfo.ca.gov/cgi-bin/waisgate?WAISdocID=96324118285+2+0+0&WAIAction=retrieve>.

AB 682
http://leginfo.ca.gov/pub/07-08/bill/asm/ab_0651-0700/ab_682_bill_20071012_chaptered.pdf.

AB 1894
http://leginfo.ca.gov/pub/07-08/bill/asm/ab_1851-1900/ab_1894_bill_20080930_chaptered.pdf.

OA’s Web site: Perinatal HIV Prevention Project
www.cdph.ca.gov/programs/AIDS/Pages/OAPerinatal.aspx.

CCLAD Web site and Contact List
www.cclad.org