

In Texas, HIV is a reportable disease (section 81.041 of the Texas Health and Safety Code) and there are laws regulating several aspects of HIV testing and subsequent reporting.

### **Minor Consent to HIV Test**

Minors in Texas have the right to consent to the diagnosis and treatment of an infectious, contagious, or communicable disease that is reportable (Section Sec. 32.003 of the Family Code). Providers should consider whether the minor has the capacity to consent. This means that the minor has the cognitive ability to understand the risks and benefits involved.

### **Written Consent for HIV Test**

When a general consent form for medical treatment has been signed and verbal consent for HIV testing is documented (thus constituting informed consent), a separate consent form for HIV testing is not required (Section 81.105 & 81.106 Health and Safety Code). Other regulations apply to testing related to non-medical purposes, such as insurance (Section 81.108 of the Health and Safety Code).

### **Confidentiality**

State laws that cover the confidentiality of HIV test results include Texas Health & Safety Code Sections 81.046, 81.103, and 81.106(b). Health care providers should also be knowledgeable regarding federal HIPAA requirements. Confidentiality and HIPPA requirements do not prevent providers from reporting HIV to public health agencies.

### **Requirements for Delivering a Positive HIV Test Result**

Texas Health and Safety Code (81.109) requires that people receiving a positive result to an HIV test be given the opportunity for immediate, face-to-face counseling about several aspects of the test. There are several components that must be covered in the counseling to ensure that the client understands the test result, available resources and how to prevent transmission.

Texas Health and Safety code 81.109 does not require that the health care provider who conducted the test also deliver the results. Health care providers may contact their local health department so that a Disease Intervention Specialist (DIS) can deliver the result. A DIS is specially trained to interview the patient and then locate partners. The DIS provides information and referrals needed for the partner. A DIS will notify partners of the possible exposure; offer appropriate services, including examination, treatment, and referrals; and provide prevention counseling to patients and partners.<sup>1</sup>

## HIV and Partner Services

Partner Services refers to help offered to people with HIV and other STDs and their partners. A key component of Partner Services is Partner Notification, the process of asking patients about partners and notifying those partners of possible transmission. Partner Notification is covered under Texas Health and Safety code (Section 81.051) and is most often conducted by DIS. A partner notification program must also provide services to a person with an HIV infection, even if he or she does not disclose information about a partner.

Health care providers conducting HIV testing can contact their Health Authority (local or regional) to become more familiar with partner notification services in their area.

## Reporting HIV

Physicians (or a designee) are required to report any case of HIV and AIDS according to Title 25, Part 1, Chapter 97, Subchapter F, Rules §97.130- §97.134 of the Texas Administrative Code. DSHS provides basic information and resources for disease reporting ([www.dshs.state.tx.us/hivstd/healthcare/reporting.shtm](http://www.dshs.state.tx.us/hivstd/healthcare/reporting.shtm))

**Disclaimer:** The Department of State Health Services is providing this information for informational and training purposes only. Nothing in these materials should be construed as legal advice. Please consult your own legal counsel if you have questions concerning any of the laws discussed in this handout.

<sup>1</sup> Recommendations for Partner Services Programs for HIV Infection, Syphilis, Gonorrhea, and Chlamydia Infection. 2008 Centers for Disease Control and Prevention (CDC). Morbidity and Mortality Weekly Report (MMWR) 57 (1-63).

## RESOURCES FOR HIV & THE LAW:

Visit [hivtest.org](http://hivtest.org) to find an HIV or STD testing site.

Call 211 or (800) CDC-INFO to find an HIV/AIDS service provider in Texas or locate other patient resources.

Test Texas HIV Coalition provides resources for HIV testing ([testtexashiv.org](http://testtexashiv.org))

The DSHS HIV/STD program provides links to Texas rules and laws. Visit [www.dshs.state.tx.us/hivstd/policy/laws.shtm](http://www.dshs.state.tx.us/hivstd/policy/laws.shtm) for more information



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