



POLICY TITLE:	HIV Testing and Counseling				
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EFFECTIVE DATE:	January 2019				
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I. PURPOSE

The purpose of this policy is to outline procedures for HIV testing in compliance with New York State regulations. The goal in New York State is to increase HIV testing in order to provide prompt treatment to individuals identified as being HIV-positive.

II. POLICY

This policy implements New York State law governing HIV testing, counseling, and referral services to patients.

III. SCOPE

This policy applies to patients of the Mount Sinai Health System as delineated below and all members of the Mount Sinai Health System workforce including, but not limited to: employees, medical staff, volunteers, students, and other persons performing work for or at Mount Sinai Health System.

IV. PROCEDURE

A. When an HIV Test Must Be Offered

1. The Hospital must offer confidential HIV testing to all patients (or their legally authorized representative) aged 13 and older, or younger than 13 if there is evidence or indication of risk activity. This applies to all hospital in-patients, Emergency Department, and primary care patients receiving primary care in an outpatient setting (clinic, hospital, or office) who are receiving care from an authorized provider (physician, physician assistant, nurse practitioner, or midwife). Written consent is not required; however verbal advisement must be provided.
2. Verbal advisement of HIV testing shall be culturally and linguistically appropriate.
3. Exceptions: Notwithstanding the above, a test need not be offered if the authorized provider reasonably believes that the patient:
 - 1.a. is being treated for a life threatening emergency;
 - 1.b. has previously been offered or has been the subject of an HIV test except that a test shall be offered if otherwise indicated by risk factors; or
 - 1.c. lacks capacity to verbally consent to an HIV test.

B. Pre-Test Advisement

1. No provider may perform an HIV test without advising the patient (or if the patient lacks capacity, their legally authorized representative) that an HIV test is being performed. This advisement must be given prior to the test being obtained. Written consent is not required; however, no HIV test may be performed over the patient's or their legally authorized representative's objection except as authorized or required by law.
2. The following may advise and counsel: an authorized provider, NY State trained HIV counselor, occupational health coordinator or approved advanced practice nurse.
3. Before ordering an HIV test, the physician or other person authorized by law to order such test will make the following information available:
 - 1.a. HIV is the virus that causes AIDS and can be transmitted through unprotected sex (vaginal, anal, or oral sex) with someone who has HIV; contact with blood, as in sharing needles (piercing, tattooing, drug equipment including needles used to inject drugs); by HIV-infected pregnant women to their infants during pregnancy or delivery or while breast feeding.
 - 1.b. There are treatments for HIV/AIDS that can help an individual stay healthy.
 - 1.c. Individuals with HIV/AIDS can adopt safe practices to protect uninfected and infected people in their lives from becoming infected or being infected themselves with different strains of HIV.
 - 1.d. Testing is voluntary and can be done anonymously at a public testing center.
 - 1.e. The law protects the confidentiality of HIV test results and other related information.
 - 1.f. The law prohibits discrimination based on an individual's HIV status and services are available to help with such consequences.
 - 1.g. The law requires that an individual be advised before an HIV test is performed and that no test shall be performed over the individual's objection except as authorized or required by law.
4. It is recommended that providers inquire about domestic violence (DV) concerns if not done previously in patient intake or clinical care. If at any point, a DV concern is raised, a referral should be made to Social Work.
5. If the patient is pregnant, pre-test counseling should include:
 - 1.a. The importance of HIV testing for the current pregnancy
 - 1.b. The benefits of HIV testing as early in the pregnancy as possible to reduce perinatal transmission.

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- 1.c. The importance of treating mother and newborn.
- 1.d. All newborns are tested with results reported to their mothers.
- 1.e. The meaning of the test results for both mother and newborn.
- 1.f. The benefits of repeat third trimester HIV testing to reduce perinatal transmission.

** For further information, see OB/GYN and Social Work policy manuals.*

6. The patient seeking a test shall be offered the opportunity to remain anonymous through the use of a coded system with no link to the individual's identity. If anonymity is requested the patient must be referred outside of Mount Sinai. For anonymous testing locations, refer to the [NYSDOH Anonymous HIV Counseling and Testing Program](#) website.

7. In case of an occupational exposure to blood and body fluids, an anonymous HIV test* of the source may be performed without advising the source patient that a test is being performed if the patient is deceased or if all of the following conditions are met:

- a. The source is comatose or is determined by his/her physician to lack mental capacity to consent, **and**
- b. The source is not expected to recover in time for the exposed person to receive appropriate medical treatment, **and**
- c. There is no person immediately available who has legal authority to consent in time for the exposed person to receive appropriate medical treatment, **and**
- d. The exposed person will benefit medically from knowing the source person's HIV test result and this is documented in the exposed person's medical record.
 - d.i. Since treatment decisions for the exposed individual need to be made expeditiously with therapy initiated within 2 hours of the exposure, the decision to perform anonymous HIV testing may be made immediately if no appropriate surrogate is present.

* NYS law requires that results of anonymous source patient testing are given only to the provider of the exposed solely for assisting the exposed person in making appropriate decisions regarding PEP. The results of the test are not to be disclosed to the source patient or placed in the source patient's medical record. See References.

8. The advisement, and any objection to testing, shall be documented in the patient's medical record by the authorized health care provider (HCP).

C. Test Ordering

- 1. Once the patient (or legally authorized representative) has been appropriately advised and has not objected to the HIV test, the order for the HIV antibody test must be placed by an authorized health care provider (HCP).
- 2. The specimen is collected in a gold top tube for standard HIV antibody test or green top tube for rapid HIV antibody test.

D. Post-Test Counseling

By law, both negative and positive HIV test results must be provided to the patient. Negative results can be provided in person, verbally or in writing, or via phone. Positive results must be provided in person. Regardless of the result, the outcome must be provided as soon as possible.

1. Negative Result

- 1.a. HCP documents post-test counseling in the medical record:
 - 1.a.i. Meaning of the test result.
 - 1.a.ii. Possibility of HIV exposure during the past three months and possible need to re-test.
 - 1.a.iii. Reinforce risk reduction strategies in relation to high risk sexual or needle sharing behavior.

2. Positive Result

- 2.a. HCP documents post-test counseling in the medical record:
 - 1.a.i. Discuss the meaning of the test result.
 - 1.a.ii. Encourage timely access to health care and give referrals.
 - 2.a.1.a) Referrals shall include (but not be limited to) counseling:
 - 1.a.1.a.1) for coping with the emotional consequences of learning the result;
 - 1.a.1.a.2) regarding discrimination problems that disclosure of the result could cause;
 - 1.a.1.a.3) the importance of precautions and changes in behavior that will result in preventing transmission or contraction of HIV infection;
 - 1.a.1.a.4) to inform the patient of available medical treatments and
 - 1.a.1.a.5) to encourage notification of the patient's contacts.
 - 1.a.iii. With consent of the patient or their legal representatives, provide or arrange for a follow-up appointment to receive medical care.
- 2.b. For a pregnant patient coordination of care is provided by a designated Provider or the Social Work team. Discussion will include a recommendation for early entry into prenatal care to reduce maternal-child transmission and risk of transmission through breast feeding.
- 2.c. Discuss the requirement to report patient' with positive test results to the NYSDOH (New York State Department of Health) for epidemiological and Partner Notification purposes.
- 2.d. Explain the importance of remaining in care to maintain good health, and that if a person with HIV appears to have fallen out of care, he or she may be contacted by the medical provider or NYC Department of Health staff to address barriers to entry into care and promote engagement into care.
- 2.e. Inform patients that local and state health departments share HIV surveillance information with health care providers, include agencies engaged in care coordination, for the purpose of patient linkage and retention in care.
- 2.f. Domestic violence screening will be conducted before any assisted notification; the patient's name is never disclosed during partner/contact notification.
- 2.g. Discuss known partner/spouse and provider's responsibility to report name(s) to NYSDOH.
- 2.h. Discuss additional sexual partners and contacts who may have shared needles with the patient, select the best option for notification of each partner and conduct domestic violence screening.

**Note: A contact/partner's name will not be kept by New York State Department of Health for more than one year after completion of contact/partner notification. A common question is whether or not the patient must name their partners or contacts. Naming partners/contacts should be strongly encouraged but is voluntary and there is no penalty for not naming.*
- 2.i. Explain partner/contact notification options:
 - 1.a.i. Two methods of partner/contact notification
 - 1.a.i.a) Notification by a Partner Notification Assistance Program (PNAP)/CNAP counselor or provider. The patient's name or other identifying information is never revealed.
 - 1.a.i.b) Self-notification (if patient chooses not to name partner/contact). Explain that when self-notification is chosen, a confirmation plan will be worked out between the provider and PNAP/CNAP.



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- 1.a.ii. An authorized provider must complete the "Medical Provider HIV/AIDS and Partner /Contact Report Form (PRF)" (DOH #4189). This form is used only for patients with an initial HIV-positive antibody test (ELISA).
 - a) Electronically submit the form using the NYS Health Commerce System Provider Portal:
https://commerce.health.state.ny.us/public/hcs_login.html
 - b) Hand deliver or mail confidentially both the white and yellow copies to:

The Mount Sinai Hospital:
Administrator, Box 1009
Jack Martin Fund Clinic
CAM Building 3rd Floor

Mount Sinai Queens:
Infection Prevention and Control Department
23-34 30th Avenue, 2nd Floor
Astoria, NY 11102

There will be a monthly pick-up of the yellow copies by the DOHMH of these forms. The white copies will remain on file.

Note: No partner contact information should be filed in the patient's medical record.

- 2.j. Outpatient practice areas providing HIV testing and counseling should keep a copy of DOH #4189 form in a locked, confidential file.
- 2.k. Provide or refer the patient to medical services and counseling for needed support services (e.g., education to prevent transmission to others, emotional support, legal and domestic, violence services) including the location and telephone numbers of treatment sites, information on the use of HIV medication for prophylaxis and treatment, peer group support, access to prevention services and assistance, if needed, in obtaining any of these services.

3. Indeterminate Result

- 3.a. Discuss the meaning of test results and encourage re-testing;
- 3.b. Discuss availability of appropriate medical follow-up;
- 3.c. Reinforce risk reduction strategies.

E. Post-Test Documentation

1. Document the provision of post-test counseling, including the test results, results of domestic violence screening and arrangements for partner/contact notification, if applicable.
2. No identifying information about the partner(s)/contact(s) should be documented.

Note: If HIV testing was ordered during an admission and the patient is no longer in-house, the discharge summary must include the notation "HIV test pending". Lab results will be sent to the ordering physician. If the ordering physician cannot be located, it will be the responsibility of the chief resident to contact any patient with a positive result (or that patient's primary care provider) and to proceed with post- test counseling for positive counseling as above.

F. Reporting

Reporting by the Laboratory:

1. All HIV test results performed by a Mount Sinai Health System Laboratory or sent through the Laboratory to a referral Laboratory, including initial screening antigen/antibody tests, confirmatory tests, and qualitative or quantitative molecular tests, are resultated through the Laboratory Information Systems to the Electronic Medical Record.
2. All positive HIV test results are reported automatically to the NYSDOH Bureau of HIV/AIDS Epidemiology through the Electronic Clinical Laboratory Reporting System (ECLRS).
3. If a patient tests positive, information reported to NYSDOH also includes:

- a. Names and addresses of the patient
- b. Provider and facility name
- c. Complete provider and facility address and telephone number
- d. Provider and facility National Provider Identification
- e. Names and addresses, if available, of contacts, including spouses, known to the physician or other person authorized to order diagnostic tests or make medical diagnoses, or provided to them by the protected individual (see section D.2.h.i. above);
- f. Date each contact was notified if contact notification has already been done
- g. Information, in relation to each reported contact, required by an approved domestic violence screening protocol.

G. Research Patients

1. The provisions above regarding advising that an HIV test is being performed do not apply to the performance of an HIV test for transplantation, research and other special circumstances including but not limited to those situations noted below:
 - 1.a. Relating to the procuring, processing, distributing, or use of a human body or a human body part, including organs, tissues, eyes, bones, arteries, blood, semen, or other body fluids for use in medical research or therapy, or for transplantation to individuals, provided, however, that where the test results are communicated to the subject, post-test counseling, as described above, shall be provided.
 - 1.b. For the purpose of research, if the testing is performed in a manner by which the identity of the test subject is not known and may not be retrieved by the researcher.
 - 1.c. On a deceased person, where the test is conducted to determine the cause of death or for epidemiological purposes.
 - 1.d. In certain occupational exposures, as detailed in MSHS site-specific Infection Control policies.
 - 1.e. For comprehensive new born testing.
 - 1.f. For court ordered testing (consult the Legal Department).
 - 1.g. When testing without consent is specifically authorized or required by law (consult the Legal Department),
2. Tests done for research that are reported in error will be removed from the registry.
3. Disclosure of HIV-related information to qualified researchers for research purposes may be allowed with Institutional Review Board (IRB) approval.

V. REFERENCES

NYS Public Health Law §2781

10 NYCRR Part 63

NYS DOH Frequently Asked Questions regarding the HIV Testing Law

MSHS Employee Health Services Blood and Body Fluid Exposure Reference Sheet

NYS Occupational Exposure and HIV Testing: Fact Sheet and Frequently Asked Questions



REVIEW/REVISION HISTORY

MSBI/B	Reviewed	*09/00	06/02						
	Revised	05/06	09/11	02/12	12/14	01/18	01/19		
MSH/Q	Reviewed	*09/00	06/02	12/17					
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MSSL/W	Reviewed	*01/15							
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