

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Rick Scott
Governor


Celeste Philip, MD, MPH
Surgeon General and Secretary

Vision: To be the Healthiest State in the Nation

MEMORANDUM

DATE: November 22, 2016

TO: CHD Health Officers, CHD Medical Directors, CHD Nursing Directors

FROM: Anna Marie Likos, MD, MPH 
Acting Deputy Secretary and State Epidemiologist

SUBJECT: HIV Testing Rule Adoption for Opt-Out HIV Testing in Health Care Settings

In 2015, there were approximately 112,000 persons diagnosed and living with HIV in Florida and the Centers for Disease Control and Prevention (CDC) estimates that roughly one in eight (12.4%) persons living with HIV are unaware of their status. In September 2016, Florida Administrative Code Rules 64D-2.002, 2.003, 2.004, and 2.006, were adopted to implement Florida's amended HIV testing law (section 381.004, Florida Statutes). This amendment removed the need for separate informed consent prior to HIV testing in health care settings. This amendment simplifies routine HIV screening in health care settings and has the opportunity to improve the identification of new or existing HIV infections. There was no change in the law regarding non-health care settings.

Summary of Changes to Section 381.004, Florida Statutes:

- Informed consent is no longer required in health care settings in Florida prior to testing for HIV.
- Patients must be notified either orally or in writing that they will be tested for HIV unless they decline (opt-out of) testing.
- Notification must include information that a positive HIV test result, along with identifying information, will be reported to the county health department and of the availability and location of sites at which anonymous testing is performed.
- If the patient opts out, it must be noted in their medical record.
- A patient need not be notified that their blood is being tested for HIV in the event of a significant exposure for health care personnel.
- A patient need not be notified that their blood is being tested for HIV in the event of a significant exposure for non-health care personnel during a medical emergency.

These changes align the state of Florida more closely with the CDC 2006 Revised Recommendations for HIV Testing in Adults, Adolescents and Pregnant Women and the U.S. Preventative Services Task Force (USPSTF) 2013 Updated Recommendation for HIV Screening. The USPSTF released an updated recommendation statement on screening for HIV, giving a "Grade A" recommendation for routine screening for HIV infection in adolescents and adults 15 to 65 years of age. The "Grade A" rating indicates that all primary payers, including Medicaid and Medicare, will be required to cover routine HIV screening, and as such, may be a reimbursable service.

Model protocols for HIV testing in health care and non-health care settings are available on the Department's HIV Prevention website www.floridahealth.gov/diseases-and-conditions/aids/prevention/testing-counseling.html.