



Model Protocol for HIV Counseling and Testing in Health Care Settings

Florida law carefully structures how health care providers and other registered test sites may conduct HIV testing. The Model Protocol provides guidelines for performing HIV testing and counseling in accordance with statutory requirements and established public health policy.

In Florida, HIV testing is established and governed by section 381.004, Florida Statutes, Florida Administrative Code Rule 64D-2.004, Internal Operating Procedures, and Model Protocols, all of which are in line with the HIV testing guidelines issued by the Centers for Disease Control and Prevention.

"Health care setting" means any setting devoted to both the diagnosis and care of people. Examples include county health department (CHD) clinics, hospital emergency departments, urgent care clinics, substance abuse treatment clinics, primary care settings, community clinics, mobile medical clinics, and correctional health care facilities.

The protocol is divided into three sections. Section 1 of the protocol provides guidelines for HIV testing in CHD clinics. Section 2 provides guidelines for HIV testing in other health care settings, including hospital emergency departments, urgent care clinics, substance abuse treatment clinics, primary care settings, community clinics, and correctional health care facilities. Section 3 describes the release of preliminary test results, anonymous and repeat testing, and the special provisions for testing pregnant women. Section 3 applies to HIV testing conducted under both Sections 1 and 2.

Section 1. HIV Testing in CHD Clinics

1. Pre-Test Counseling

All CHD clinics must provide the opportunity for HIV pre-test counseling prior to testing for HIV. Pre-test counseling should include the following:

- Purpose of the HIV test, including medical indications
- Possibility of false positive or false negative result
- Possible need for confirmatory testing
- Possible need for retesting
- Availability, benefits, and confidentiality of partner notification services
- Need to eliminate high-risk behavior

2. Notification

No person shall perform an HIV test without first notifying the person to be tested that the test is planned and that he or she has the right to refuse. Limited exceptions can be found in section 381.004(2)(h), Florida Statutes, and in Florida Administrative Code Rule 64D-2.004(1). Notification may be oral or in writing. Refusal to test shall be documented in the medical record.

3. Post-test Counseling

The person ordering the test, or that person's designee, shall ensure that all reasonable efforts are made to notify the test subject of his or her test result. All CHD clinic sites must provide the opportunity for face-to-face post-test counseling. Post-test counseling should include the following:

- The meaning of the test results
- The possible need for additional testing
- The need to eliminate high risk behavior
- Post-test counseling for positive test results must also include information on the availability of medical and support services; the importance of notifying partners including spouses and former spouses, from the past 10 years of their potential exposure; and preventing HIV transmission

Section 2. HIV Testing in Other Health Care Settings

1. Pre-test counseling is not required

2. Notification

No person shall perform an HIV test without first notifying the person to be tested that the test is planned and that he or she has the right to refuse. Limited exceptions can be found in section 381.004(2)(h), Florida Statutes, and in Florida Administrative Code Rule 64D-2.004(1). Notification may be oral or in writing. Refusal to test shall be documented in the medical record. Special provisions for hospitals are listed in section 381.004(2)(g), Florida Statutes.

3. Notification of Test Results

The person ordering the test, or that person's designee, shall ensure that all reasonable efforts are made to notify the test subject of his or her test result. In the case of a hospital emergency department, detention facility, or other facility where the test subject has been released before being notified of positive test results, informing the local county health department to notify the test subject fulfills this responsibility. When test subjects are given their test result, Florida law requires that, at a minimum, the following information is provided:

- **For positives:** Information on preventing transmission of HIV; the availability of medical and support services; the importance of notifying sex and/or needle sharing partners, including spouses and former spouses, from the past 10 years of their potential exposure; and the voluntary confidential partner services available through the CHD.
- **For negatives:** Information on preventing the transmission of HIV and retesting, if appropriate.

4. Physician Reporting

The physician or their designee must report positive HIV test results to the Department of Health in accordance with section 384.25, Florida Statutes, and Florida Administrative Code Rule 64D-3.030.

Section 3. Additional Testing Guidelines

1. Release of Preliminary HIV Test Results

- Pursuant to section 381.004(2)(d), Florida Statutes, preliminary test results may be released to health care providers and to the person tested when decisions about medical care or treatment cannot await the results of confirmatory testing. Positive preliminary HIV test results shall not be characterized as a diagnosis of HIV infection. The health care provider who ordered the test must document justification for the use of preliminary test results in the medical record. This does not authorize the release of preliminary test results for the purpose of routine identification of HIV-infected individuals or when HIV testing is incidental to the preliminary diagnosis or care of a patient. Corroborating or confirmatory testing must be conducted as follow up to a positive preliminary test. Results shall be communicated to the patient according to statute regardless of outcome. The results of rapid testing technologies are considered preliminary; however, these results may be released in accordance with the manufacturer's instructions as approved by the U.S. Food and Drug Administration.

2. Anonymous Testing

Information regarding the availability and location of anonymous test sites is maintained and available through the local CHD or at www.floridaaids.org.

3. Special Testing Requirements for Pregnant Women

Section 384.31, Florida Statutes, and Florida Administrative Code Rule 64D-2.004 require a health care provider who attends a pregnant woman for conditions relating to her pregnancy to test for HIV and other sexually transmitted diseases (STDs) at the initial visit and counsel her on the availability of treatment if she tests positive. If a pregnant woman tests HIV negative, test again at 28–32 weeks gestation and at labor and delivery under the circumstances outlined in Florida Administrative Code Rule 64D-3.042.

The physician shall inform the woman she will be tested for HIV and other STDs and of her right to refuse. If the pregnant woman objects to testing, a reasonable attempt must be made to obtain a written statement of objection, signed by the woman, which shall be placed in her medical record.

Emergency departments of hospitals licensed under Chapter 395, Florida Statutes, may satisfy the testing requirements under this rule by referring any woman identified as not receiving prenatal care after the twelfth week of gestation to the CHD. The referral shall be in writing and a copy shall be submitted to the CHD having jurisdiction over the area in which the emergency department is located. Emergency rooms and the local CHD should develop protocols.

4. Repeat Testing

Health care providers should test all persons likely to be at high risk for HIV at least annually. The following criteria should be used to help the test subject determine his or her level of risk:

- Sexual behavior
- Substance use/abuse
- Needle sharing
- Occupational exposure
- Blood, blood products, transplants
- Partners at risk for HIV

- History of sexually transmitted disease(s)
- Child of woman with HIV/AIDS
- History of sexual assault/domestic violence
- Sex for drugs/money

Testing should also be based on local HIV prevalence. Men who have sex with men should be tested at least twice annually.