

PUBLIC HEALTH CODE (EXCERPT)
Act 368 of 1978

333.5133 Information on HIV testing; notification of testing and opportunity for questions; authority to decline; partner notification; HIV test performed for purpose of research; inapplicability of section; conditions; informing patient of test results.

Sec. 5133. (1) Except as otherwise provided by law, a physician who orders an HIV test or a health facility that performs an HIV test shall provide information appropriate to the test subject both before and after the test is administered.

(2) A test subject or his or her authorized representative who provides general informed consent for medical care is considered to have consented to an HIV test. A separate consent form for an HIV test is not required. However, except as otherwise provided by law, a health care provider shall not order an HIV test for a test subject without first doing both of the following:

(a) Informing the test subject or his or her legally authorized representative verbally or in writing that an HIV test will be performed unless the test subject or his or her legally authorized representative declines the HIV test.

(b) Offering the test subject or his or her legally authorized representative an opportunity to ask questions and decline the HIV test.

(3) If a test subject or the test subject's legally authorized representative declines an HIV test under subsection (2), the decision must be documented in the test subject's medical record.

(4) If a test subject undergoes an HIV test at a department approved testing site and the test results of the HIV test performed under this subsection indicate that the test subject is HIV infected, the staff of the department approved testing site shall proceed with partner notification in the same manner in which a local health department would proceed as described in section 5114a(3) to (5).

(5) This section does not apply to an HIV test performed for the purpose of research, if the test is performed in such a manner that the identity of the test subject is not revealed to the researcher and the test results are not made known to the test subject.

(6) Except as otherwise provided in subsection (8), this section does not apply to an HIV test performed on a patient in a health facility if the conditions in subdivisions (a) and (b) or the conditions in subdivisions (a) and (c) are met:

(a) The patient is informed in writing upon admission to the health facility that an HIV test may be performed on the patient without his or her right to decline under circumstances described in subdivision (b) or (c). As used in this subdivision, "admission" means the provision of an inpatient or outpatient health care service in a health facility.

(b) The HIV test is performed after a health professional, health facility employee, police officer, or fire fighter, or a medical first responder, emergency medical technician, emergency medical technician specialist, or paramedic licensed under section 20950 or 20952 sustains in the health facility, while treating the patient before transport to the health facility, or while transporting the patient to the health facility, a percutaneous, mucous membrane, or open wound exposure to the blood or other body fluids of the patient.

(c) The HIV test is performed pursuant to a request made under section 20191(2).

(7) Except as otherwise provided in subsection (8), this section does not apply if the test subject is unable to receive or understand the information described in subsections (1) and (2) or to decline the test as described in subsection (3), and a legally authorized representative of the test subject is not readily available to receive the information or decline for the test subject.

(8) If the results of an HIV test performed under this section indicate that the patient is HIV infected, the health facility shall inform the patient of the positive test results and shall provide the patient with appropriate counseling regarding HIV infection and acquired immunodeficiency syndrome and referrals to expedite HIV treatment and services. If the results of an HIV test performed under this section indicate that the patient is not HIV infected, that information must be provided to the patient through normal health care provider procedures.

History: Add. 1988, Act 488, Eff. Mar. 30, 1989;—Am. 1994, Act 200, Imd. Eff. June 21, 1994;—Am. 1994, Act 420, Eff. Mar. 30, 1995;—Am. 2010, Act 320, Eff. Jan. 1, 2011;—Am. 2018, Act 535, Eff. Mar. 28, 2019.

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