



# STATE OF NEW YORK DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Richard F. Daines, M.D.  
*Commissioner*

James W. Clyne, Jr.  
*Executive Deputy Commissioner*

August 30, 2010

Dear Colleague:

On July 30, 2010, Governor David A. Paterson signed Chapter 308 of the Laws of 2010 authorizing significant changes in HIV testing in New York State. This law was enacted to increase HIV testing in the State and promote HIV-positive persons entering into treatment. Implementing this legislation is critical, since approximately 20 percent of HIV-positive New Yorkers are unaware of their infection status and 33 percent of persons newly identified with HIV are diagnosed with AIDS within one year.

Key provisions of the legislation include:

- HIV testing must be offered to all persons between the ages of 13 and 64 receiving hospital or primary care services, with limited exceptions noted in the law. The offering must be made to inpatients; persons seeking services in emergency departments; persons receiving primary care as an outpatient at a clinic; or from a physician, physician assistant, nurse practitioner or midwife.
- Standardized model forms for obtaining informed consent and providing for disclosure will be developed by the New York State Department of Health (Department) and posted on the Department website (see below).
- Consent for HIV testing can be part of a general durable consent to medical care, though specific opt out language for HIV testing must be included.
- Consent for rapid HIV testing can be oral and noted in the medical record.
- Prior to being asked to consent to HIV testing, patients must be provided the seven points of information about HIV required by the Public Health Law.
- Health care and other HIV test providers authorizing HIV testing must arrange an appointment for medical care for persons confirmed positive.
- HIV test requisition forms submitted to laboratories will be simplified.
- Deceased, comatose or persons otherwise incapable of providing consent, and who are the source of an occupational exposure, may now be tested for HIV in certain circumstances without consent.
- Confidential HIV information may be released without a written statement prohibiting re-disclosure when routine disclosures are made to treating providers or to health insurers to obtain payment.

More information and forms will be available on or before September 1, 2010. Stakeholder feedback will inform further implementation, modifications and the development of regulations, as necessary. For additional information, please go to the Department's website [www.nyhealth.gov](http://www.nyhealth.gov). Questions not covered in the attached FAQ document may be sent to [hivtestlaw@health.state.ny.us](mailto:hivtestlaw@health.state.ny.us).

Sincerely,

Richard F. Daines, M.D.  
Commissioner of Health

Enclosure

**Model for General Medical Consent that Includes Written Consent for HIV Testing**

Chapter 308 of the Laws of 2010 instructs the New York State Department of Health (Department) to create standard model forms for obtaining consent for HIV testing. The model below is for those providers who use a general medical consent process. This form may be modified, or the provider may modify its own consent form, without Department approval, but the form must contain information consistent with the model form and must be written in a clear and coherent manner using words with everyday common meanings.

**Consent for Medical Treatment**

**Use your facility's general medical consent but amend to include the following:**

I have been given information regarding HIV testing, how HIV can be transmitted, that there is treatment for HIV/AIDS, how to keep myself and others safe from HIV infection, that testing is voluntary and can be done anonymously, how my HIV-related information will be kept confidential and what laws protect people with HIV/AIDS from discrimination. I understand that the results will be documented in my medical chart.

Consent for HIV-related testing remains in effect until I revoke it, or until the following date \_\_\_\_\_. I may revoke my consent orally or in writing at any time. As long as this consent is in force,     (provider name or facility)     may conduct additional tests on me without asking me to sign another consent form. In those cases, my provider will tell me if other HIV tests will be performed and will make a note in my medical record.

Patient Name: \_\_\_\_\_

Date: \_\_\_\_\_

I do not want an HIV test

Signature: \_\_\_\_\_  
(patient or person authorized to consent)

**HIV Specific Model Consent Form**

Chapter 308 of the Laws of 2010 instructs the New York State Department of Health (DOH) to create standard model forms for obtaining consent for HIV testing. The model below is for those providers who use the Department’s current “Informed Consent to Perform HIV Testing” form, DOH-2556 Parts A and B. This form may be modified, or the provider may modify its own consent form, without Department approval but the form must contain information consistent with the model form and must be written in a clear and coherent manner using words with everyday common meanings. Note that Part A remains unchanged and is available on the Department’s website in dozens of languages.

**Informed Consent to Perform HIV Testing Part B DRAFT**

My health care provider has answered any questions I have about HIV/AIDS. I have been provided information with the following details about HIV testing:

- 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), by HIV-infected pregnant women to their infants during pregnancy or delivery, or while breast feeding.
- There are treatments for HIV/AIDS that can help an individual stay healthy.
- 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.
- Testing is voluntary and can be done anonymously at a public testing center.
- The law protects the confidentiality of HIV test results and other related information.
- The law prohibits discrimination based on an individual’s HIV status and services are available to help with such consequences.

I agree to be tested for HIV infection. If the results show I have HIV, I agree to additional testing which may occur on the sample I provide today to determine the best treatment for me and to help guide HIV prevention programs. I also agree to future tests to guide my treatment. I understand that I can withdraw my consent for future tests at any time. If I test positive for HIV infection, I understand that my health care provider will talk with me about telling my sex or needle-sharing partners of possible exposure.

Consent for HIV-related testing remains in effect until I revoke it or until the following date \_\_\_\_\_. I may revoke my consent orally or in writing at any time. As long as this consent is in force, my provider may conduct additional tests without asking me to sign another consent form. In those cases, my provider will tell me if other HIV tests will be performed and will note this in my medical record.

Patient Name: \_\_\_\_\_

Date: \_\_\_\_\_

I do not want an HIV test

Signature: \_\_\_\_\_  
(patient or person authorized to consent)

Medical Record #: \_\_\_\_\_

(8/25/10)

**Model Form for Documenting Offer of HIV Testing**

**(Optional Form; Compliance with the required offer of an HIV test  
may be documented through proper annotation of the patient medical record)**

Chapter 308 of the Laws of 2010 instructs the New York State Department of Health (DOH) to create standard model forms for obtaining consent for HIV testing. The model below is for documenting the offer of HIV testing. It may be modified without Department approval but must contain information consistent with the model form and must be written in a clear and coherent manner using words with everyday common meanings. Providers may also comply with the requirement for documenting the offer by proper notation in the patient’s medical record.

**Offer of HIV Testing**

New York State Public Health Law requires that an offer of HIV related testing be made to all persons between the ages of 13 and 64 receiving hospital or primary care services except under specific circumstances. This includes inpatients, persons seeking services in emergency departments those receiving primary care on an outpatient basis at a clinic or from a physician, physician assistant, nurse practitioner or midwife.

HIV is the virus that causes AIDS and is passed from one person to another during unprotected sex (oral, anal or vaginal sex without a condom) with someone who has HIV. HIV is also passed through contact with blood as in sharing needles (piercing, tattooing or injecting drugs of any kind) or sharing “works” with a person who has HIV.

If your test result is negative, you can learn how to protect yourself from being infected in the future. If you are positive, you can take steps to prevent passing the virus to others, and you can receive treatment for HIV and learn about other ways to stay healthy.

\_\_\_\_\_ Yes, I would like to speak to someone about HIV testing.

\_\_\_\_\_ No, I do not wish to have an HIV test today.

Patient Name: \_\_\_\_\_

Date: \_\_\_\_\_

Signature: \_\_\_\_\_  
(patient or person authorized to consent)

Medical Record #: \_\_\_\_\_

## **HIV Testing Law Frequently Asked Questions August 25, 2010**

### *Overview*

#### **1. When does the testing law go into effect?**

The testing law is effective September 1, 2010. Full implementation of certain sections will take place after regulations have been developed and adopted in final form. Please refer to page titled, "Implementation Outline".

#### **2. What are the key provisions of the law?**

- HIV testing must be offered to all persons between the ages of 13 and 64 receiving hospital or primary care services with limited exceptions noted in the law. The offering must be made to inpatients, persons seeking services in emergency departments, persons receiving primary care as an outpatient at a clinic or from a physician, physician assistant, nurse practitioner or midwife.
- Standardized model forms for obtaining informed consent and providing for disclosure will be developed by the New York State Department of Health and posted on the DOH website (see below).
- Consent for HIV testing can be part of a general durable consent to medical care, though specific opt out language for HIV testing must be included.
- Consent for rapid HIV testing can be oral and noted in the medical record.
- Prior to being asked to consent to HIV testing, patients must be provided the seven points of information about HIV required by the Public Health Law.
- Health care and other HIV test providers authorizing HIV testing must arrange an appointment for medical care for persons confirmed positive.
- HIV test requisition forms submitted to laboratories will be simplified.
- Deceased, comatose or persons otherwise incapable of providing consent, and who are the source of an occupational exposure, may now be tested for HIV in certain circumstances without consent.
- Confidential HIV information may be released without a written statement prohibiting re-disclosure when routine disclosures are made to treating providers or to health insurers to obtain payment.

### *Required Offer of HIV Testing*

#### **3. Does the requirement that HIV testing be offered to all persons between the ages of 13 and 64 apply in all medical settings?**

The requirement for the offering of testing applies to persons receiving inpatient or emergency department services at hospitals and persons receiving primary care services through hospital outpatient clinics, diagnostic and treatment centers, and persons receiving primary care services from physicians, physician assistants, nurse practitioners and midwives. Exceptions to this requirement are detailed in the response to Question #4. Practitioners who see their patients on a regular basis may consider incorporation of the offer of HIV testing as part of routine physical exams and well child visits to meet the requirement.

**4. What are the exceptions to the mandatory offer of HIV testing in the hospital, diagnostic and treatment center, and primary care settings noted in the law?**

The law does not require an offer of testing to be made:

- When the individual is being treated for a life threatening emergency.
- When the individual has previously been offered or has been the subject of an HIV related test (unless otherwise indicated due to risk factors).
- When the individual lacks the capacity to consent (and no other appropriate person is available to provide consent).

**5. Must an individual have risk factors for HIV to be offered an HIV test?**

No. The offer is required except as noted above.

**6. Is HIV testing mandatory?**

The law mandates the offer of HIV testing only, not testing itself. In New York State, HIV testing is voluntary and requires the consent of the person being tested or someone authorized to consent for the individual. Testing is however mandatory in certain limited circumstances as follows:

- As of February 1997, all newborns in New York State are tested for HIV antibodies. A newborn's test result also provides information about the mother's HIV status.
- Blood, body parts, and organ donations are tested for HIV.
- HIV testing can be required in order to participate in some federal programs, such as the Job Corps and the Armed Forces.
- Under certain conditions, inmates in federal prisons (but not in state or local correctional facilities) are tested for HIV without their consent.
- HIV testing can be required for certain types of insurance, like disability or life insurance. However, insurance companies must tell applicants they will be tested for HIV, must provide them with general information, and must have the applicant sign a consent form. In New York State, people cannot be denied health insurance because they are living with HIV or AIDS.
- Testing may be performed without consent in instances of occupational exposure when the source person is not able to themselves consent and other conditions are met (see Questions 31 for information about circumstances when HIV testing for occupational exposure may be done without consent of the source patient).

**7. Does the offer of HIV testing apply to school-based clinics and family planning sites that provide primary care, pediatrics, obstetrics, or gynecology services?**

Yes.

## **8. How often does the offer of HIV testing need to be repeated?**

The HIV testing offer needs to be made at least once to every person between the ages of 13 and 64 (or younger or older, if indicated). Additional offers of testing need to be made for persons whose risk behaviors indicate testing.

## **9. Which providers must offer HIV testing under this law?**

Providers who must offer HIV testing include:

- Those providing health services in an inpatient or emergency department of general hospital;
- Primary care providers, defined to include, without regard to board certification, family medicine, general pediatrics, primary care, internal medicine, primary care obstetrics or primary care gynecology, offering primary care services in a hospital outpatient department or diagnostic and treatment center and
- Physicians, physician assistants, nurse practitioners or midwives providing primary care regardless of setting.

Providers are not required to offer HIV testing if the patient is a) being treated for a life threatening condition; b) has previously been offered or has been tested for HIV or c) lacks capacity to consent to an HIV test. Some dentists currently offer their patients HIV testing and may continue to do so – but are not required to offer the test under this law.

### ***Consent***

## **10. How is this law different from the previous law with regard to informed consent?**

Now, informed consent for HIV testing can be incorporated into a general medical consent that is consistent with a model provided by the Department. Consent is now durable, continuing in force until its stated term expires or until it is revoked by the patient. Even so, the patient needs to be informed orally each time an HIV test will be done. For rapid HIV tests, consent may be obtained orally and must be noted by the ordering clinician in the patient's medical chart. Laboratories are no longer required to retain certification from practitioners that informed consent has been obtained.

## **11. Are there different rules for HIV testing consent in correctional facilities?**

Yes. It is not permissible to seek oral informed consent for rapid HIV testing in facilities operated under the correction law. Testing in correctional facilities must follow the guidelines for written informed consent.

## **12. Do the consent procedures in the law apply to tests used for monitoring HIV disease progression or treatment such as viral loads, CD4 counts, or HIV resistance?**

The law applies specifically to testing that is being performed to diagnose HIV infection.

**13. Must providers obtain parental consent to test an individual between 13-18 years old?**

No. In New York State, the capacity to consent to an HIV test (either confidential or anonymous) is determined without regard to age. Providers offering HIV testing must make a determination as to the patient's capacity to consent. If a practitioner determines a person between 13-18 years old does not have the capacity to consent, the offer of testing for the young person should be made to a parent or other person capable of providing consent.

**14. What key elements should be added to a medical facility's or provider's general medical consent to comply with the law?**

There are three key components that need to be added to your current general medical consent; HIV testing may be done/counseling information will be provided, duration of consent, and a clearly marked place for patient to decline HIV testing.

- HIV Testing/ counseling sample language from law:

This also may include HIV-related testing. If HIV-related testing will be offered, I have been given information regarding the causes of AIDS, treatment for HIV/AIDS, how to keep myself and others safe from HIV infection, how my HIV related information will be kept confidential, and what laws protect people with HIV/AIDS. I understand that the test is voluntary and is available anonymously at public sites.

- Duration of consent sample language from law:

Consent for HIV-related testing remains in effect until I agree to revoke it or until the following date\_\_\_\_\_. I may revoke my consent orally or in writing at any time. As long as this consent is in force, \_\_\_(provider name or facility)\_\_\_ may conduct additional tests on me without asking me to sign another consent form. In those cases, my provider will tell me if other HIV tests will be performed and will note this in my medical record.

- A clearly marked place adjacent to the signature where the patient (or person authorized to consent) may decline HIV related testing

\_\_\_ I do not want an HIV test

Signature: \_\_\_\_\_  
(patient or person authorized to consent)

**15. We're not going to have our own forms ready on September 1, 2010. Do we have to use the model forms posted on the Department's website and attached to the Dear Colleague letter?**

You can use the Departments model forms or you can continue to use the previous version of DOH-2556 (5/05) and DOH-2556i (6/05). You do not need to use any form if you are offering a rapid test, but need to document consent in the medical record.

**16. What are the seven points of information that need to be provided to persons who will be asked to consent to HIV testing?**

Persons being asked to consent to HIV testing must be provided the following explanations:

- 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), by HIV-infected pregnant women to their infants during pregnancy or delivery, or while breast feeding.
- There are treatments for HIV/AIDS that can help an individual stay healthy.
- Individuals with HIV/AIDS can adopt safe practices to protect uninfected from acquiring HIV and infected people from acquiring additional strains of HIV.
- Testing is voluntary and can be done anonymously at a public testing center.
- The law protects the confidentiality of HIV test results and other related information.
- The law prohibits discrimination based on an individual's HIV status and services are available to help with such consequences.
- The law allows an individual's informed consent for HIV related testing to be valid for such testing until such consent is revoked by the subject of the HIV test or expires by its terms.

This information may be provided in the context of a pre-test counseling session or through other oral or written mechanisms. For persons not able to consent for themselves, the Family Health Care Decisions Act stipulates who is able to consent for care in a variety of circumstances.

**17. The general consent is signed upon admission to hospital, how do we fulfill the requirement for counseling language “information regarding the causes of AIDS, the availability of treatment, safe practices, confidentiality protections, discrimination laws and that the test is voluntary and is available anonymously at public sites has been provided”?**

The Department's form DOH-2556 Part A fulfills this requirement.

**18. What are the requirements for documenting oral consent for rapid HIV testing?**

Consent or refusal should be noted in the patient's medical record including date and name of person ordering the test. In non-medical settings, consent should be noted in the program's testing documentation for each client.

**19. How do patients decline testing and what documentation is required?**

Refusal can be documented on a general medical consent form by patients indicating in a clearly marked place near their signature that they do not wish to be tested for HIV. In instances when such a general medical consent form is not used, the refusal should be noted in the patient's medical record including date and name of the person making the note.

**20. What is the process for patients to revoke consent for HIV testing? What is the documentation requirement?**

Revoking consent can be done by the patient orally or in writing. Oral revocation should be noted in the medical record, in close proximity to the original consent, and in the current annotation of the medical record. Medical record documentation should include the date and person making the note.

**21. What is the expiration period for HIV consent?**

There is no specific expiration period unless one is noted on the consent form. However, consent can be withdrawn at any time.

**22. Do patients who give oral consent to a rapid HIV test have to sign a written consent for western blot confirmation?**

No. The oral consent applies to both the screening and confirmation.

**23. In a private medical office offering primary care where there is no general medical consent, what form should be used?**

Private medical offices can use either of the standard model consent forms provided by the Department or create one of their own that contains information consistent with the standard models. They may also use the standard model form for documenting the offer of HIV testing or note the offer in the medical record.

*Follow-up Appointments for HIV-infected persons*

**24. The law requires that persons ordering HIV testing provide or arrange for an appointment for follow-up HIV care for those who test positive and who agree to have such an appointment made. Does that appointment need to be with an infectious disease physician and what are the documentation requirements?**

The law does not specify the clinician specialty but does specify that the appointment must be for follow-up HIV care. The patient's medical record should reflect the name of the provider/facility with whom the appointment was made.

**25. Does the requirement to provide or arrange for an appointment for follow-up HIV care apply only to those facilities and practitioners noted in law as having to offer testing?**

No. These are separate parts of the statute. The requirement for providing or arranging for a medical appointment for those diagnosed as HIV-infected applies to anyone providing HIV testing with some exceptions (such as testing done for a blinded research protocol or for procuring body parts for transplantation).

**26. Is it sufficient to provide a person testing HIV positive with the contact information of a Designated AIDS Center or HIV specialist?**

No. The clinician ordering an HIV test is responsible for arranging for the appointment. Every reasonable effort should be made to link persons who receive positive test results to care, prevention, supportive and partner services.

***Reimbursement***

**27. Does this law impact access to Medicaid reimbursement for HIV counseling and testing?**

No. Medicaid rate structures and reimbursement mechanisms are not impacted at this time. Changes to Medicaid rate structures and reimbursement, if any, will be communicated to providers in the "Medicaid Update."

**28. Must HIV testing offered under the law be provided free of charge if Medicaid or private insurance is not in place?**

Chapter 308 has not changed the way HIV diagnostic testing is paid for. Reimbursement rules for Medicaid and private insurers are subject to change. Patients who would like information about free or anonymous testing sites may call 1-800-541-AIDS (3547).

***Disclosure of HIV-related Information***

**29. What changes does the law make with regard to disclosure of HIV-related information?**

The law adds two exceptions to the current list of exceptions to the requirement that disclosures of HIV-related information be accompanied by a disclosure statement. The additional exceptions are disclosure to:

- A health care provider or health facility when knowledge of the HIV related information is necessary to provide appropriate care or treatment to the protected individual, a child of the individual, a contact of the protected individual, or a person authorized to consent for health care for such a contact.
- Third party reimbursers or their agents to the extent necessary to reimburse health care providers for health services; provided that, where necessary, an otherwise appropriate authorization for such disclosure has been secured by the provider.

**30. What does the law say about access to confidential HIV information of deceased persons?**

The new law clarifies that executors and administrators of an estate shall have access to confidential HIV information as needed to fulfill their responsibilities.

## *Occupational Exposure*

### **31. In what cases can a provider test a source patient of an occupational exposure without that patient's consent?**

Situations may occur where a source patient in an instance of occupational exposure is unable to provide consent for HIV testing. The Family Health Care Decisions Act stipulates who is able to consent for care in a variety of circumstances like this. In cases of occupational exposure which create a significant risk of contracting or transmitting HIV infection, a test may be ordered if all of the following conditions are met:

- the source person is deceased, comatose or is determined by his or her attending professional to lack mental capacity to consent, and
- the source person is not expected to recover in time for the exposed person to receive appropriate medical treatment, and
- there is no person available or reasonably likely to become available who has legal authority to consent in time for the exposed person to receive appropriate medical treatment, and
- the exposed person will benefit medically by know the source person's HIV test results.

### **32. How should HIV testing be done in occupational exposure cases that meet all of the criteria above?**

The law requires that the provider order an anonymous test of the source person with results being provided only to the attending professional of the exposed person solely for assisting the exposed person in making appropriate decisions regarding post-exposure medical treatment. The results of the test cannot be disclosed to the source person or placed in that person's medical record.

### **33. In cases of occupational exposure, how is authorization to conduct anonymous testing obtained?**

A clinician may only order an immediate anonymous test in the specific instance of an occupational exposure involving a source patient who is deceased, comatose or otherwise unable to consent. The medical benefit of knowing the source person's test result must be documented in the exposed person's medical record. In almost all other instances, anonymous testing is conducted by staff of state and local health departments. Persons wishing an anonymous test can be referred to one of these by having them call 1-800-541-AIDS (3547).

### **34. Is the type of HIV test specified for anonymous testing involving occupational exposure from a patient unable to give consent?**

No. However, NYSDOH strongly recommends use of a rapid HIV test. Rapid test results are usually available within 30 minutes of testing. In those organizations subject to OSHA regulations, rapid testing is the mandated technology for source patient testing in cases, including occupational exposures. NYSDOH guidelines recommend that post exposure prophylaxis should be initiated as soon as possible, ideally within two hours and generally no later than 36 hours post exposure.

### *Laboratory Questions*

**35. Our laboratory's test requisition form includes a place for physician certification that informed consent was obtained. Can the laboratory continue to use this form after the new law goes into effect?**

Yes, the laboratory may continue using existing stock of requisition forms for HIV testing. At the time the laboratory revises its form, the lines for certifying consent should be removed. Forms may retain statements to the effect that informed consent is required. Reasonable effort should be made to notify ordering providers that their certification of consent on requisitions is no longer required effective September 1.

**36. NYS has required specific statements regarding disclosure of HIV-related information on the laboratory report. Are these statements still required?**

A general statement regarding re-disclosure of HIV-related information that complies with 10 NYCRR Section 63.5 will continue to be required on reports of test results.

**37. Does this new law change any of the existing requirements for reporting preliminary positive HIV test results?**

No. A preliminary positive may be reported at the request of the ordering provider.

**38. Will laboratories continue to be involved in the consent process?**

Laboratories that offer HIV testing at health fairs or community screening events using rapid HIV tests are required to document the test subject's consent. However, under the new law when a rapid test is used, consent may be oral and documented by testing personnel.

**39. Does the change to the law's definition of HIV-related test affect a laboratory's obligation to report to the Department all confirmed positive HIV tests?**

No. Reporting requirements are stipulated in Department regulations at 10 NYCRR Section 63.4. The types of tests that are reportable will remain unchanged.

### *Other Questions*

**40. Will NYSDOH require any data be reported from health care facilities or private practitioners with regard to activities mandated under this law?**

No. There are no new reporting requirements included in the Law. Medical providers must continue to complete and submit the NYS Medical Provider HIV/AIDS and Partner/Contact Report Form (PRF) to report new diagnoses of HIV or AIDS and/or persons needing partner services. Forms or additional information on this routine reporting requirement can be obtained by calling the NYSDOH at 518-474-4284.

**41. How can clinicians determine the tests "approved for the diagnosis of HIV"?**

Approved tests technologies include those consistent with state and national guidelines for HIV diagnosis.

#### **42. What is the requirement for post-test counseling?**

A person who tests HIV positive must be provided directly by the person ordering the test (or through a representative) counseling or referrals for counseling on the following:

- for coping with the emotional consequences of learning the result;
- regarding potential discrimination as a result of disclosure of the test result;
- for behavior change to prevent transmission or acquisition of a new HIV infection;
- to inform the person of available medical treatments;
- and regarding the need to notify contacts.

A person who tests HIV negative must be provided with information concerning risks of participation in sexual and needle-sharing activities that can result in infection. This information may be in the form of written materials such as the Department's Part A form DOH-2556i.

#### **43. Can HIV-infected minors consent for their own treatment?**

In general, parental or guardian consent is required for a physician to treat a minor for HIV/AIDS, including in school-based clinics. Family planning clinics can provide only family planning related care to minors with the minor's consent. Minors who are married or pregnant/parenting can consent for their own care.

#### **44. If I am not currently providing rapid HIV testing where can I find information about how to apply?**

Information on registering as a Limited Service Laboratory for the performance of HIV rapid tests in clinics and other settings can be found on the DOH website at <http://www.nyhealth.gov/diseases/aids/testing/rapid/>. Physicians or physician practices performing HIV testing must apply for a CLIA Certificate of Waiver. Instructions and applications are available at <http://www.wadsworth.org/labcert/polep/>.

#### **45. When will the Department begin to enforce the provisions of the HIV testing law?**

The law is effective September 1, 2010. The Department is aware there will be implementation challenges related to the HIV testing law due to the abbreviated time between the enactment and effective date. We will work collaboratively with facilities and providers over the next several months as they come into compliance with the various provisions.