



# CLINICAL GUIDELINES PROGRAM

NEW YORK STATE DEPARTMENT OF HEALTH AIDS INSTITUTE | HIV · HCV · SUBSTANCE USE · LGBT HEALTH

## HIV Testing

May 2022

<b>Box 1: New York State (NYS) Public Health Law HIV Testing and Reporting Requirements</b>	
<b>Who to test</b>	NYS law mandates that physicians offer an HIV test to all patients ≥13 years old (or younger with risk) if a previous test is not documented, even in the absence of symptoms consistent with acute HIV. For more information, see <a href="#">NYSDOH HIV Testing</a> .
<b>Consent</b>	HIV testing remains voluntary, and patients have the right to refuse an HIV test, but obtaining written or oral consent for testing is no longer required in any setting. At a minimum, patients must be advised verbally that an HIV test is going to be performed.
<b>Minor consent</b>	Minors may consent to their own HIV testing, treatment, and/or prevention services (such as PrEP and PEP) without parent/guardian involvement.
<b>Pre-test counseling</b>	Before HIV testing is performed, information about HIV must be provided verbally, in writing, through signage, or in any other patient-friendly audio-visual format. Placing a <a href="#">NYSDOH HIV testing clinic poster</a> in a visible location or providing patients with the <a href="#">NYSDOH patient brochure</a> on HIV testing are easy and convenient ways to provide patients with this necessary information.
<b>Post-test counseling</b>	<ul style="list-style-type: none"> <li>• <i>When testing indicates an HIV infection:</i> The clinician who ordered the HIV testing (or their representative) must provide the result to the patient, ensure the patient is scheduled for follow-up HIV care, and educate the patient on HIV transmission.</li> <li>• <i>When testing indicates no HIV infection:</i> The patient must be informed of the result and provided education on prevention options, including PrEP and PEP. This information may be in the form of written materials, such as the NYSDOH <a href="#">Information on Non-reactive (Negative) HIV Test Results</a>.</li> <li>• <i>When testing indicates inconclusive or incomplete results:</i> The patient must be informed of the result and have an additional specimen collected to repeat the HIV testing algorithm.</li> </ul>
<b>Testing in pregnancy</b>	<a href="#">HIV testing</a> should be offered to pregnant individuals as early as possible during pregnancy and again during the third trimester for those who previously tested negative.
<b>Reporting requirements</b>	<ul style="list-style-type: none"> <li>• NYS Public Health Law Article 21 (Chapter 163 of the Laws of 1998) requires the reporting of individuals with HIV as well as AIDS to the NYSDOH. The law also requires that reports contain the names of sex or needle-sharing partners known to the medical provider or whom the infected individual wishes to have notified. For more information, see <a href="#">NYSDOH Provider Reporting and Partner Services</a>; also see <a href="#">NYC: How to Report a Diagnosis of HIV or AIDS</a>.</li> <li>• See <a href="#">NYSDOH 2023 Changes to Provider Reporting of Human Immunodeficiency Virus (HIV) in New York State</a> (November 2023) for updated reporting requirements, timelines, reporting methods, including instructions for accessing the HIV/AIDS Provider Portal.</li> <li>• Per the 2023 NYS Public Health Law update, the Medical Provider Report HIV/AIDS and Partner/Contact Report Form (DOH-4189) must be completed: <ul style="list-style-type: none"> <li>– <b>Within 24 hours of an acute HIV infection diagnosis</b></li> <li>– Within 7 days of receipt of laboratory results or diagnosis of HIV infection that is not acute or AIDS</li> <li>– HIV testing conducted in the context of insurance institution underwriting decisions is required to be reported by clinicians under whose medical license the HIV testing is ordered. Electronic reporting using the DOH-4189 form on the provider portal of the NYS Health Commerce System is preferred.</li> </ul> </li> <li>• The DOH-4189 form can be completed electronically through the <a href="#">provider portal on the NYSDOH Health Commerce System</a>. For information regarding Provider Portal access or to obtain printed copies of the PRF, call 518-474-4284.</li> </ul>

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<b>Partner services</b>	Clinicians must explain to all individuals with a new diagnosis of HIV the importance of notifying any sex or needle-sharing partners. Throughout the notification process, names or personal identifiers, including the dates of exposure, are never revealed to partners. The anonymity and privacy of the original patient is the highest priority. For more information, see <a href="#">NYSDOH Information on Partner Services</a> .
<b>Nomenclature</b>	In NYS, the terms "clinical/symptomatic HIV illness or AIDS," "AIDS or HIV-related illness," and other similar terms shall mean laboratory-confirmed HIV diagnosis (source: NYSDOH June 2016 Policy Statement: <a href="#">Defining Program Eligibility by HIV Status</a> ).
<b>Resources</b>	<ul style="list-style-type: none"> <li>• <a href="#">NYSDOH 2023 Changes to Provider Reporting of Human Immunodeficiency Virus (HIV) in New York State</a></li> <li>• NYSDOH: <a href="#">HIV Testing, Reporting and Confidentiality in New York State 2017-18 Update: Fact Sheet and Frequently Asked Questions</a></li> <li>• <a href="#">HIV/AIDS Laws and Regulations: Reporting and Partner Services</a></li> <li>• <a href="#">What Health Care Providers Need to Know about Partner Services</a></li> <li>• <a href="#">Occupational Exposure and HIV Testing: Fact Sheet and Frequently Asked Questions</a></li> <li>• <a href="#">CEI PEP and PrEP Line: 866-637-2342</a></li> </ul>
<b>Abbreviations:</b> PEP, post-exposure prophylaxis; PrEP, pre-exposure prophylaxis.	