

Maine HIV, STD and Viral Hepatitis Program
Policy and Procedure
HIV Transmission Prevention (HTP)

I. Background

This policy addresses the responsibilities of the Department of Health and Human Services (the Department) found in the *Rules for the Control of Notifiable Conditions, 10-144 CMR Chapter 258* (the Rules) with respect to HIV/AIDS and non-compliant persons. The Rules govern the reporting of certain diseases and conditions of public health importance, as well as the responsibilities and duties in the investigation and intervention of those diseases and conditions.

The list of notifiable disease and conditions, which includes HIV/AIDS, are found in the Rules. The Rules describe the scope and extent of duties of the Department for investigation and intervention of notifiable diseases in four broad categories:

1. Routine Case Investigation and Intervention
- 2. Non-compliant Persons – HTP policy applies to this responsibility**
3. Outbreaks and Epidemics
4. Extreme Public Health Emergency

The responsibility for carrying out these duties lies with Division of Infectious Disease, Maine Center for Disease Control and Prevention (Maine CDC), under the direction of the Director of the Division of Infectious Disease.

It's important to note this policy will not create an environment in which there is no risk of HIV infection. It is each person's responsibility to learn their HIV status, disclose their HIV status to all sex and needle sharing partners and engage in behaviors that do not transmit HIV. The HIV epidemic will only be slowed through the practice of these and other appropriate prevention measures by all individuals.

II. Definition

The HTP policy addresses the Department's responsibilities for controlling disease in the category of non-compliant persons with respect to HIV/AIDS. The Rules define non-compliant persons in the following way "...Persons who have either contracted or been exposed to notifiable diseases and conditions who knowingly expose others to the danger thereof, are to be considered as acting in a manner that is a public health threat..." (*Chapter 258: Rules for the Control of Notifiable Diseases and Conditions*, Page 18) For the purpose of the HTP policy, persons subject to this policy are people living with HIV who meet the definition of non-compliant persons in the Rules.

More specifically, this policy defines a non-compliant person for HIV transmission as a person living with HIV who knows they are infected with HIV and there is reasonable and sufficient evidence to believe:

1. They failed to use condoms or other protective barriers or methods to ensure that blood, semen, vaginal or other HIV infected fluids¹ were not exchanged during sexual activities AND failed to inform their partner of their HIV status; and/or
2. They shared needles, piercing or tattooing equipment that was exposed to their blood, semen, vaginal or other HIV infected fluids² AND failed to inform the people they shared these devices with of their HIV status.

Consistent with Title 22, Subtitle 2, Part 3: Public Health, Chapter 250: Control of Notifiable Diseases and Conditions, Subchapter 1: Definitions, 801, 10. Public health threat, people who are HIV positive and inform their partners of their HIV infection prior to engaging in the above behaviors, and whose partners voluntarily and knowingly engage in these activities, shall not be considered persons with prevention-adherence problems. The focus, therefore, of the HTP policy is on HIV exposures wherein a person is not informed and does not knowingly consent to HIV exposure.

III. General Procedure

The Rules provide guidance for the implementation of the Department's investigation and intervention responsibilities concerning non-compliant persons. They also describe the legal authorizations that control the Department's actions in these cases.

The Department follows two general principles in imposing disease control measures:

- Using the least restrictive measures to limit the spread of the disease; and
- Adopting step-wise control strategies, whenever practical and as long as doing so does not unreasonably increase the threat to public health.

In cases of non-compliant persons, where it is found that such persons endanger the public health through their infection or through their behaviors while infected, the Department may use public health disease control methods, up to and including involuntary confinement, isolation and medical treatment, as necessary to protect the public, as authorized by 22 *MRSA, sections 807 et seq.* and the Rules.

The HTP policy is intended to create an approach to fulfilling the Department's responsibilities concerning non-compliant persons that will allow the Department to provide the support and skills needed to help non-compliant persons implement behaviors that prevent HIV transmission. While involuntary disease control measures may be necessary as a last resort, this policy focuses on developing an individualized HIV prevention plan based upon the principles of using the least restrictive measures to limit the spread of HIV infection and adopting step-wise control strategies, whenever practical and as long as doing so does not unreasonably increase the threat to public health. In

¹ *Rules for the Control of Notifiable Conditions, 10-144 CMR Chapter 258*

² *Rules for the Control of Notifiable Conditions, 10-144 CMR Chapter 258*

addition, this policy places utmost importance upon respecting the privacy rights and dignity of the non-compliant person while still protecting the public health (see *Maine CDC Administrative Policy CDC-P2*).

The following general principles apply when intervening in situations involving persons who have HIV and have exposed others without informing them:

- a. The behavior of the person has placed someone at risk for contracting HIV;
- b. The person did not inform partners in the exposure of their HIV infection;
- c. Proposed interventions are expected to change the person's behavior to prevent HIV transmission;
- d. Any proposed intervention will be the least restrictive alternative available and less restrictive measures must have been previously considered;
- e. The identity of the person and the facts of the investigation will be held in the strictest confidence that is legally possible; and
- f. All applicable laws, rules and policies will be upheld.

The Director of the Division of Infectious Disease is responsible for the investigation and intervention of appropriate disease control measures in cases of non-compliant persons. The Director may designate authority to the HIV, STD and Viral Hepatitis Program Director.

IV. Screening

A. Initiating an HTP Report

A report of non-compliant persons may be initiated when a report is made to the Department by a person with sufficient reason and evidence to believe that a person living with HIV has knowingly engaged in a behavior likely to transmit HIV without informing their partner of their infection. Reports are received by designated staff in the Maine HIV, STD and Viral Hepatitis Program, Maine CDC.

In addition, the Maine CDC will initiate a report when they have sufficient reason and evidence to believe that a person living with HIV has knowingly engaged in a behavior likely to transmit HIV without informing their partner of their infection.

Anonymous reports will be investigated at the discretion of the Maine CDC.

B. Initial Screening Criteria

The HIV, STD and Viral Hepatitis Program shall handle reports concerning HTP. The Disease Intervention Specialist (DIS) Coordinator or designated HIV Prevention staff shall collect the information on the *Report of HIV Non-Disclosure form (appendix 1)*.

Each report shall, whenever possible:

1. Identify the reporter and the subject of the report,
2. Be signed by the person making the report (*appendix 1a*), and

3. Include: locating information for the person making the report, locating information for the subject, and specific allegations of non-compliant behavior.

After collecting the information on the *Report of HIV Non-Disclosure form*, the person making the report will be given the following information:

- a) Assurance of their confidentiality as allowed by law.
- b) Description of the criteria that define HTP:
- c) Description of the process for a HTP investigation:
- d) Notice they may receive a call back to follow up with more questions.
- e) Notice they will not receive information about the outcome of the investigation.
- f) Provision of appropriate referrals if needed.

C. Verification of the Subject's HIV Status

Once the HTP report is received, the HIV Epidemiologist or his or her designee will verify the HIV status of subject within one (1) working day. If positive HIV status is not verified, the investigation shall cease immediately and records pertaining to it shall be confidentially retained and destroyed at the end of three years. If positive HIV status is verified, the report shall be given to the HTP Review Team for review.

V. Review

Once positive HIV status has been verified, the HTP Review Team shall meet within two (2) working days of receipt of the report to determine if there is sufficient reason and evidence to continue the investigation and conduct an interview with the subject of the report. The Review Team is, minimally, comprised of: the HIV, STD and Viral Hepatitis Program Director, the HIV Prevention Program Manager, and the DIS Coordinator. Each review of a report received shall establish and document:

- Whether the subject is infected with HIV,
- Whether there maybe sufficient reason and evidence that the subject has not disclosed their HIV infection to others while engaging knowingly in behavior that exposes others to HIV infection.

If the Review Team determines there is not sufficient reason and evidence to believe that the subject has not disclosed their HIV infection to others while engaging knowingly in behavior that exposes others to HIV infection, the investigation shall cease immediately and records pertaining to it shall be confidentially retained and destroyed at the end of three years.

If the Review Team determines there may be sufficient reason and evidence to believe that the subject has not disclosed their HIV infection to others while engaging knowingly in behavior that exposes others to HIV infection, the Director of the Division of Infectious Disease shall be notified and the HTP report will be assigned to a Disease Intervention Specialist (DIS) for follow-up investigation.

VI. Investigation and Education

Each investigation shall be conducted in a systematic fashion by a qualified DIS representing the HIV, STD and Viral Hepatitis Program. The investigation shall be completed within fifteen (15) working days of receipt of the report. The DIS shall make all reasonable attempts to locate the subject to conduct a personal interview. The purpose of the interview is to provide basic education and assess the subject's current understanding of:

- Their HIV infection status,
- How HIV is transmitted and how transmission can be prevented, and
- Behaviors that place others at risk of infection.

The DIS shall document the interview in writing, signed by both parties whenever possible, on the *DIS Outreach Report (appendix 2)*, and give one copy to the person interviewed. The DIS shall document all referrals made on the *DIS Interview Checklist (appendix 3)*. Finally, the DIS will document all information in a written report, the *DIS Follow-Up Report on HTP (appendix 4)*, with a narrative.

HTP investigations shall be conducted in a systematic fashion according to the following procedure:

- a) The DIS will be assigned the case within two (2) working days of the HTP review team's decision to follow up.
- b) Within eleven (11) working days of the assignment, the DIS shall make all reasonable attempts to locate the subject of the HTP report and complete a personal interview.
- c) The personal interview will assess whether the subject: (1) Knows that he/she is infected; (2) Understands how HIV is transmitted, how to prevent HIV transmission, and the importance of telling, and how to tell, sexual and needle-sharing partners about their HIV status; (3) Is engaging in behavior as described in the Report of HIV Non-Disclosure.
- d) The DIS will contact the DIS Coordinator and submit the results of the interview within eleven (11) working days of the assignment.
- e) The DIS Coordinator will submit the *DIS Outreach Report* and the *DIS Follow-Up Report on HTP* to the Review Team within two working days.
- f) The DIS may be asked to re-interview the case following the Review Team meeting and at their recommendation.

The Review Team shall review the results of the investigation and determine if there is sufficient reason and evidence to believe non-compliance has occurred according to the HTP definition of non-compliant person (as defined in *Section II. Definition*).

If the Review Team determines there is not sufficient reason and evidence, the investigation shall cease immediately and records pertaining to it shall be confidentially retained and destroyed at the end of three years. The Review Team shall inform the Director of the Division of Infectious Disease of the decision.

If the Review Team determines there is sufficient reason and evidence to believe that the subject did not disclose their HIV infection to others while engaging knowingly in behavior that exposes others to HIV infection:

- The Director of the Division of Infectious Disease shall be notified and shall call together a Standing Committee;
- The designated HTP Intake and Assessment Specialist shall be contacted to initiate the intake and assessment process.

VII. Intervention

A. Intake and Assessment

Once the Review Team has determined there is sufficient reason and evidence to believe that non-compliance has occurred, the Review Team shall contact the designated HTP Intake and Assessment Specialist within two (2) working days to conduct the intake and assessment. The Specialist shall be a licensed professional with appropriate experience selected by the Maine CDC. During the intake and assessment, the HTP Intake and Assessment Specialist shall gather basic information about the subject and assess the subject's HIV prevention needs and ability to adopt HIV prevention behaviors. The intake and assessment will be completed within ten (10) working days of contact with the HTP Intake and Assessment Specialist. The results of this intake and assessment will be presented to the Standing Committee within five (5) working days of completion.

B. Standing Committee

The Division Director shall establish a Standing Committee for the coordination of step-wise control measures. The Standing Committee shall be chaired by the Director of the Division of Infectious Disease and also shall include as many of the following members relevant to the case as possible:

- Health Care Provider of Subject;
- Prevention Case Manager;
- HIV Case Manager of Subject;
- Mental Health Specialist;
- Substance Abuse Specialist;
- A representative from the Attorney General's office;
- The Director of the Maine CDC, or his/her designee;
- The Disease Intervention Specialist investigating the case;
- The State Epidemiologist or designee;
- The HIV Prevention Program Manager;
- The HIV, STD and Viral Hepatitis Program Director, or his/her designee

C. Individualized Prevention Plan

The Standing Committee shall review the *DIS Follow-Up Report on HTP*, the investigation results and the intake and assessment results within five (5) working days of receipt of the completed intake and assessment. The Standing Committee will approve an Individualized Prevention Plan for the subject based on the information presented and guided by two general principles: (1) using the least

restrictive measures to limit the spread of HIV, and (2) adopting step-wise control strategies, whenever practical and as long as doing so does not unreasonably increase the public health threat. The Standing Committee will regularly track the progress of the subject as the Individualized Prevention Plan is carried out. At the completion of the Individualized Prevention Plan, the Standing Committee will review the case to determine if there is an indication that the individual understands and complies with preventive health practices.

Step-wise control measures include:

- Individual Education and Counseling
- Cease and Desist Order

Cease and Desist Order, signed by the Commissioner of the Department, directs the non-compliant person to stop all activities likely to transmit HIV and specifies the public health disease control measures to be followed.

- Court-Ordered confinement, isolation, and treatment

Upon receipt of information that a Cease and Desist Order has been violated, the Department shall contact the Office of the Attorney General to pursue a civil fine and/or injunctive relief pursuant to 22 MRSA, Section 804 (2); or civil commitment or other relief under 22 MRSA, Section 810 or 812e.

At each step, the subject should be warned that failure to comply with the intervention could lead to more serious consequences, including involuntary confinement as a last resort.

VIII. Confidentiality

All information and records concerning investigations under the HTP policy shall be strictly confidential and may not be released or made public except as authorized by the Rules and other applicable State and federal laws.

Appendix

| <i>Appendix #</i> | <i>Name of Form</i> | <i>Brief Description</i> | <i>Who Completes</i> | <i>When Completed</i> | <i>Submitted to</i> |
|-------------------|-----------------------------------|--|--|--------------------------------------|-----------------------------------|
| 1 | Report of HIV Non-Disclosure | Documents all necessary information from initial report | DIS Coordinator or designee | When receiving report | Review Team |
| | | | Review Team | After review of the report | Kept in office file |
| 1a | Signature of Person Making Report | Documents signature of person reporting non-compliant behavior | Person making report | After report received | DIS Coordinator |
| 2 | DIS Outreach Report | Documents visit by DIS and topics discussed | <ul style="list-style-type: none"> • Subject of report • DIS | During investigation | DIS Coordinator (for Review Team) |
| 3 | DIS Interview Checklist | Documents referrals and points covered during interview | DIS | During/after investigation | DIS Coordinator |
| 4 | DIS Follow-Up Report on HTP | DIS summary of interview | DIS | After investigation | DIS Coordinator (for Review Team) |
| 5 | Intake and Assessment Form | <ul style="list-style-type: none"> • Assesses HIV prevention needs and potential barriers • Creates harm reduction goals | Intake and Assessment Specialist | During Intake and Assessment Process | Standing Committee |