


POLICY TITLE: CONSENT TO HIV TESTING AND DISCLOSURE OF TEST RESULTS		PAGE 1 OF 3
POLICY NUMBER: 18.22 Adult 13.22 Juvenile		
CHAPTER 18 / 13: HEALTH CARE		
	STATE of MAINE DEPARTMENT OF CORRECTIONS	PROFESSIONAL STANDARDS
	Approved by: <u><i>Martin Magnusson</i></u> Signature of Commissioner	See Section VII
EFFECTIVE DATE: March 15, 2007	LATEST REVISION: October 14, 2010	CHECK ONLY IF APA [X]

I. AUTHORITY

The Commissioner of Corrections adopts this policy pursuant to the authority contained in 5 M.R.S.A. Section 19203(7).

II. APPLICABILITY

Adult and Juvenile Correctional Facilities

III. POLICY

It is the policy of the Department of Corrections to establish a uniform procedure for obtaining the informed consent of a prisoner or resident to HIV testing, including informed consent to the disclosure of test results.

IV. CONTENTS

Procedure A: Consent to HIV Testing and Disclosure of Test Results, General Guidelines

V. ATTACHMENTS

- Attachment A: [Consent to Test for HIV](#)
- Attachment B: [Authorization for the Disclosure of Information Acquired by Virtue of HIV Testing \(AIDS Testing\) by the Department of Corrections](#)

VI. PROCEDURES

Procedure A: **Consent to HIV Testing and Disclosure of Test Results, General Guidelines**

1. A prisoner or resident may make a request of a health care staff person or other staff person to be tested for HIV. If a prisoner or resident makes a request of a staff person other than a health care staff person to be tested for HIV, the prisoner or resident shall be referred to facility health care staff.
2. Health care staff shall follow the requirements of Department Policies 18.8.1, Infection Control, Bloodborne Pathogens (Adult) and 13.8.1, Infection Control, Bloodborne Pathogens (Juvenile), relating to HIV testing.
3. The prisoner or resident shall be informed that the test result will be treated as confidential information except that the result may be disclosed as follows:
 - a. To the prisoner or resident tested;
 - b. To the health care staff at the facility where the prisoner or resident is housed or one to which he/she may be transferred in the future;
 - c. To the Chief Administrative Officer of the facility where the prisoner or resident is housed or one to which he/she may be transferred in the future;
 - d. To the Commissioner of Corrections;
 - e. To any other staff of the Department of Corrections responsible for the treatment or care of the resident or prisoner, excluding Community Corrections staff, and who is authorized to have such information by the Commissioner of Corrections and/or the Chief Administrative Officer of the facility. Such treatment or care may include, but is not limited to, treatment or care which may be provided by teachers, social workers, correctional officers, psychologists, and counselors; and
 - f. To the Bureau of Health of the Department of Health and Human Services, if the test result is positive.
4. Prior to testing, health care staff shall have the prisoner or resident sign the Consent to Test for HIV form. Attachment A
5. When the test result has been returned to health care staff, a qualified health care staff person shall inform the prisoner or resident of the test result as soon as is reasonable under the circumstances. Health care staff shall also inform the Chief Administrative Officer, or designee, of the test result.

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6. The Chief Administrative Officer, or designee, shall ensure that any facility staff members who are permitted to know the test result are informed of the name of the prisoner or resident and the test result, as determined necessary by the Chief Administrative Officer, or designee.
7. The Chief Administrative Officer, or designee, shall ensure that the Commissioner of Corrections, or designee, is informed of any HIV positive test result. The Commissioner, or designee, shall report any positive test result to the Bureau of Health.
8. When a prisoner or resident is transferred from one departmental facility to another departmental facility, to a county jail, or to another jurisdiction's detention or correctional facility, the health care records being transferred shall include the results from any HIV testing.
9. Except as set out in 8. above, health care records being forwarded to Community Corrections staff or to another person or agency shall not include the results from any HIV testing, unless the prisoner or resident has signed an Authorization for the Disclosure of Information Acquired by Virtue of HIV Testing (AIDS Testing) by the Department of Corrections form. Attachment B
10. The results of any HIV testing shall not otherwise be disclosed to Community Corrections staff or to any other person or agency, unless the prisoner or resident has signed an Authorization for the Disclosure of Information Acquired by Virtue of HIV Testing (AIDS Testing) by the Department of Corrections form.
11. Any person to whom an HIV test result is disclosed shall be expressly informed that any further disclosure to another person or agency is prohibited by Departmental policy and also may be a violation of law. That person shall be informed that indirect disclosure to another person is prohibited, such as by way of actions which imply that the person tested is to be avoided. Disciplinary action shall be taken against a departmental employee for any prohibited disclosure. Other action, including, but not limited to, notification to a licensing board, may be taken.

VII. PROFESSIONAL STANDARDS

None

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