

Guidance for HIV Counseling, Testing, and Referral Services in Non-Clinical Settings

**Maine Center for Disease Control and Prevention
HIV, STD, & Viral Hepatitis Program**
Created January 2013



Paul R. LePage, Governor

Mary C. Mayhew, Commissioner

**Maine Center for Disease Control and Prevention
HIV, STD, & Viral Hepatitis Program
Guidance for HIV Counseling, Testing, and Referral Services in Non-Clinical Settings**

Table of Contents

Maine CDC HIV, STD, and Viral Hepatitis Program Mission.....	1
Maine CDC HIV, STD, & Viral Hepatitis Program Goals for HIV Counseling, Testing, & Referral.....	2
Scope of Guidance Document.....	3
What is CTR and Rapid Testing?.....	3
Core Elements of CTR/Rapid Testing	4
Maine Laws & Regulations Relating to HIV Testing	6
Testing Law	6
Confidentiality.....	6
Voluntary Informed Consent	6
Anonymous Testing Sites.....	7
Counseling Newly Identified Positive HIV Individuals.....	8
Civil Liability	9
Testing Minors	9
Disease Reporting	9
Mandatory Reporting (abuse).....	10
Other Laws & Regulations Pertaining to HIV Testing.....	11
HIV Counseling, Testing, and Referral Flowchart.....	12
Maine CDC HIV Testing Algorithm	13
Maine CDC Expectations and Standards.....	14
Counselor Training.....	14
High Quality CTR Standards of Service.....	14
High Risk Criteria, Risk Assessment, and Risk Reduction.....	15
Testing.....	16
Delivering HIV Test Results	16
Referrals and Linkages	18

Interpreter Services	19
Data Reporting & Forms	19
Record Keeping & Data Security	19
<i>Anonymous Records</i>	20
<i>Confidential Records</i>	20
Billing Policy	20
Quality Management	21
Expectations for Sites Performing CTR on Behalf of Maine CDC	22
Quality Assurance Monitoring and Evaluation Tools.....	24
Site Visits.....	24
Counselor Certification	24
Counselor Knowledge Evaluation	25
Counselor Observation Evaluation	25
Client Satisfaction Survey.....	26
Rapid HIV Testing Competency Evaluation.....	26
Maine CDC Supports for Community Providers and Clients.....	27
Maine CDC Services to Providers	27
Maine CDC Services to Seropositive Clients	27
Partner Services (PS)	28
CONTACT INFORMATION.....	29
APPENDIX.....	30
APPENDIX A: MAINE HIV TESTING LAWS.....	31
APPENDIX B: Consent of Minors to Test Law.....	47
APPENDIX C: Disease Reporting Laws and Rules	50
APPENDIX D: Consent Form Templates	51
APPENDIX E: Release of Information Form Templates	54
APPENDIX F: Giving Positive Test Results Recommendations	58
APPENDIX G: High Risk Criteria for No-Cost HIV Testing	62
APPENDIX H: Local Use Codes for Identifying High Risk Criteria	63
APPENDIX I: CTR Form Cover Sheet.....	64

Maine CDC HIV, STD, and Viral Hepatitis Program Mission

The Maine HIV, STD, and Viral Hepatitis Program mission is to stop the spread of sexually transmitted diseases, viral hepatitis and HIV, to reduce illness and death, and to promote the health and well-being of people with, or at risk for these diseases. The program is committed to upholding the vision of the National HIV/AIDS Strategy, which states:

“The United States will become a place where new HIV infections are rare and when they do occur, every person, regardless of age, gender, race/ethnicity, sexual orientation, gender identity or socio-economic circumstance, will have unfettered access to high quality, life-extending care, free from stigma and discrimination.”

The Maine HIV, STD, and Viral Hepatitis Program is an integrated program consisting of four collaborative programs:

- HIV/STD Prevention
- HIV/STD Surveillance
- HIV Care
- Adult Viral Hepatitis

The Maine HIV, STD, and Viral Hepatitis Program prevents and controls HIV, hepatitis and other sexually transmitted diseases (including syphilis, gonorrhea, and chlamydia) to reduce the morbidity and mortality associated with HIV/AIDS, hepatitis, and other STDs by:

- Developing care and prevention programs, administering grants and providing technical assistance to community providers for HIV and STD prevention and care;
- Providing leadership in HIV/STD prevention and care initiatives;
- Conducting clinical and disease follow-up services;
- Conducting epidemiological surveillance, analysis, and data dissemination for HIV and other STDs;
- Coordinating Ryan White sponsored AIDS Drug Assistance Program;
- Conducting provider training in HIV counseling, testing, and referral services; and
- Partnering with other state departments and programs.

The HIV/STD Prevention Program provides HIV Counseling Testing and Referral Services by purchasing contracted services from community based organizations and health clinics and supports other services to prevent the transmission of HIV. The primary activities of the HIV/STD Prevention Program include:

- Support services that help prevent HIV – education, outreach, and HIV testing.
- Partner Services and Disease Intervention Services.
- Certifying all Needle Exchange Programs.
- Counseling, testing and referral service trainings for HIV testing sites and needle exchanges.
- HIV testing and prevention updates for clinical and community based providers.
- Support and participation in the HIV Prevention Jurisdictional Planning Process.

Maine CDC HIV, STD, & Viral Hepatitis Program Goals for HIV Counseling, Testing, & Referral

1.) To make HIV Prevention Counseling, Testing, & Referral (CTR) services available and accessible to all persons in Maine.

The Maine Center for Disease Control and Prevention (Maine CDC) encourages people at risk for HIV learn their HIV serostatus. Voluntary HIV antibody testing is offered at Maine CDC designated testing sites that offer anonymous and/or confidential HIV prevention counseling, testing, and referral services (CTR). The Maine CDC trains counselors to provide HIV CTR activities in clinical and non-clinical community settings in an effort to increase accessibility to services for populations at high risk. In addition, various other health providers offer confidential HIV antibody testing across the state including private physicians' offices and other health care facilities.

2.) To provide an HIV prevention counseling session(s) that consists of pre- and post-test counseling and result giving.

Maine CDC requires that individuals seeking an HIV antibody test at designated non-clinical community test sites be offered face-to-face *pre- and post-test* counseling. An HIV prevention counseling session must include: informed consent to test, accurate, up-to-date information about HIV infection, information about the HIV antibody test being offered, information about agency and state confidentiality and reporting policies and laws, an explanation of test results and their meaning, any foreseeable risks/benefits resulting from the testing, risk assessment, and education about reducing the risk of acquiring or transmitting HIV. The session must also provide assistance in the development of a risk reduction plan to address current and/or possible future HIV exposure risks. The counseling session must assist the individual by offering appropriate referrals.

3.) To provide Partner Services (PS) when necessary.

The notification of sex and/or needle-sharing partners is a key element of CTR, specifically when the possibility of exposure to HIV is great or confirmed through a positive HIV antibody test result. With the cooperation of the individual being tested, personnel representing Maine CDC may attempt to make contact with sex and/or needle-sharing partner(s) who might have been exposed to HIV without disclosing the identity of the HIV-positive individual. When meeting with partners, personnel offer or refer them to appropriate referrals and for additional HIV, STD, and viral hepatitis testing.

4.) To link newly identified HIV positive clients to HIV medical care services.

Linking newly identified HIV positive clients to medical care is critical for improving their quality and length of life. Prompt enrollment in medical services can help with improved health outcomes and reduced risk of transmitting HIV.

5.) To link newly identified HIV positive clients to HIV prevention services.

Linking newly identified HIV positive clients to prevention services can help reduce the risk of transmitting HIV to serodiscordant partners and improve the quality of life of the client. Case management services can help connect newly diagnosed people to medical care and psychosocial services available for those living with HIV.

Scope of Guidance Document

The scope of this document is to provide programs and HIV testing providers and counselors with guidance, policy, expectations, and best practices necessary to conduct an HIV testing program in a non-clinical setting in Maine. While this document is intended to offer guidance for HIV testing sites providing HIV testing services on behalf of the Maine CDC HIV, STD, and Viral Hepatitis Program, sites providing HIV testing in other settings may use this document to guide their practice. Providers funded by Maine CDC HIV, STD, and Viral Hepatitis Program should refer to their contracts for performance standards and expectations.

What is CTR and Rapid Testing?

The United States Centers for Disease Control and Prevention (US CDC) estimates that approximately 1.1 million adults and adolescents in the United States are living with HIV. Nationally, approximately 20% of people living with HIV are unaware of their infection. Evidence suggests that many of the new HIV infections each year occur through transmission from persons who are unaware of their HIV status.

HIV Counseling, Testing, and Referral (CTR) is a single, brief, client-centered counseling session that is focused on supporting the client in making behavior changes that will reduce their risk of acquiring or transmitting HIV. The goal of CTR is to increase clients' knowledge of their HIV status; encourage and support risk reduction; and secure needed referrals for appropriate services (medical, social, prevention, and partner services).

Clients can receive CTR at clinics, dedicated sites, and through outreach or other services. CTR can be delivered anonymously or confidentially (see page 7 for more information), but it should be undertaken voluntarily and only with informed consent. HIV CTR can be conducted using rapid or conventional HIV tests. However, sometimes CTR is conducted without HIV testing if it is deemed inappropriate for the time or refused by the client. CTR can also be provided in combination with other individual level interventions designed to reduce the risk of acquiring or transmitting HIV.

Rapid HIV testing refers to the specific act of screening for HIV using an FDA-approved immunoassay device that can detect markers of HIV in 20 minutes or less that does not require complex laboratory equipment or training to interpret. These tests are performed on a sample of oral fluid, finger stick whole blood, or venipuncture whole blood. The goal of rapid HIV testing in non-clinical settings is to increase knowledge of HIV status among clients by using a CLIA-waived single-use qualitative HIV antibody test that can detect antibodies to HIV-1 and HIV-2 in 20 minutes or less.

Rapid HIV testing offers an opportunity to ensure that the tested individuals receive their results within the testing session. Additionally, rapid HIV testing enables non-clinical sites to outreach and offer HIV testing to groups disproportionately affected by HIV, as these groups are less likely to access routine HIV testing through a health care provider due to stigma, lack of access to services, or other barriers.

Core Elements of CTR/Rapid Testing

Based on rigorous evidence-based studies, US CDC has identified core elements of CTR and rapid HIV testing. Core elements are essential parts of an intervention that must be performed and cannot be ignored, added to, or changed. More information about these core elements, including planning, monitoring, and evaluation tools, can be found at: <http://www.effectiveinterventions.org/en/HighImpactPrevention/PublicHealthStrategies/CTR.aspx>.

CTR has 8 core elements which HIV CTR Providers must follow:

1. Ensure that CTR is a voluntary service that can only be delivered after informed consent is obtained.
2. Provide information and education to the client about
 - a. the HIV test and it's risks and benefits.
 - b. the risk for HIV transmission and how HIV can be prevented
 - c. the type of HIV antibody test available/used
 - d. the meaning of the test result, including the window period for HIV sero-conversion (the time after infection, before antibodies are produced by the body, during which an antibody test might be negative despite the presence of HIV)
 - e. the importance of obtaining test results and explicit procedures for doing so
 - f. where to obtain more information, counseling, or other services (medical, mental health, or substance abuse care, etc)
3. Provide client-focused HIV prevention counseling to address the client's
 - a. readiness for testing
 - b. personal risk assessment
 - c. steps taken to reduce risk
 - d. goals for reducing risk
 - e. realistic plans for achieving those goals
 - f. support systems
 - g. referral needs
 - h. plans for obtaining results, if necessary (if testing is done and the CBO is not using rapid testing)
4. In conjunction with health departments (state, local, or both) and community mental health providers, establish clear and easy guidelines and sobriety standards to help counselors determine when clients are not competent to provide consent.
5. Use an HIV testing technology approved by the Food and Drug Administration.
6. Deliver test results in a manner that is supportive and understandable to the client.
7. Assess referrals in support of risk reduction or medical care, provide appropriate referrals (including partner services), and help link clients with referral services. A system must be in place for emergency medical or mental health referrals, if needed.
8. Track referrals made and completed.

Rapid HIV Testing in Nonclinical Settings has 7 core elements:

1. Assess the community to determine

- a. in which populations HIV is likely to be under diagnosed (because risk is underestimated or because conventional counseling, testing, and referral services are not used)
 - b. where and when to reach persons who are at risk, under diagnosed, or both
- 2. Collaborate (written agreement) with the state health department, a laboratory, or both to ensure compliance with the Clinical Laboratory Improvement Amendments (CLIA) and state and local regulations and policies.
- 3. Delineate a clear supervisory structure to ensure responsibility for training and guidance, oversight for testing procedures, and coordination.
- 4. Train, or ensure training of, providers in nonclinical settings to perform rapid HIV testing. Include the following essential elements about how to
 - a. perform the test, including procedures done before, during, and after testing
 - b. maintain proper storage and testing conditions
 - c. integrate rapid testing into the overall counseling and testing program and develop and implement a quality assurance program.
 - d. collect and transport specimens for confirmatory testing
 - e. ensure specimen integrity
 - f. document and deliver confirmatory test results to persons whose rapid test results are preliminary positive
 - g. document testing results
 - h. comply with universal and biohazard safety precautions
 - i. ensure confidentiality and data security
 - j. ensure compliance with relevant state or local regulations
- 5. In conjunction with health departments (state, local, or both) and community mental health providers, establish clear and easy guidelines and sobriety standards to help counselors determine when clients are not competent to provide consent.
- 6. Ensure confirmatory testing of preliminary positive test results.
- 7. Provide clients who have a confirmed HIV-positive diagnosis with a referral or linkage to medical care, partner services, and other appropriate prevention services.

Maine Laws & Regulations Relating to HIV Testing

Testing Law

To see the testing law, please refer to Appendix A, or visit the following website:

<http://www.mainelegislature.org/legis/Statutes/5/title5ch501-1.pdf>

Confidentiality

- No person may disclose the results of an HIV test to anyone except:
 - the client receiving the test,
 - others designated by the client in a written authorization,
 - pursuant to a court-ordered disclosure, or
 - if the client is in the custody and/or care of the state.
- Records:
 - When a medical record entry is made concerning information of a person's HIV infection status, including the results of an HIV test, that information may not be disclosed or released without the client's explicit consent.
- Under certain circumstances, a test client may decide to receive services with, or in the presence of, another person if it is their expressed decision. Additional parties must sign confidentiality forms and be made aware of civil liability penalties (see "Civil Liability" below).
- Providers and counselors should ensure that CTR takes place in a setting that secures a client's confidentiality.
- Providers funded by Maine CDC must have a written policy establishing standards for client confidentiality and privacy that is approved by Maine CDC.
- Documents that contain identifying client information must be stored and transported in a manner to assure client confidentiality.
- Please see Appendix D for samples of forms describing confidentiality to clients and for documenting client consent to test.

Voluntary Informed Consent

- HIV testing is voluntary and requires informed consent that is free from coercion.
 - Informed consent means that consent is based on an actual understanding by the person to be tested that the test is being performed, the nature and reliability of the test, the persons to whom the test results may be disclosed, the purpose for which the test results may be used, and any foreseeable risks and benefits resulting from the test.
 - No one may be tested against their will unless they are required to by court order.
 - Providers must establish written standards to identify if a client is not competent to provide consent.
- The client must be informed orally or in writing that an HIV test will occur unless the client declines.
- The client must be given an explanation of what an HIV infection involves and the meaning of positive and negative test results.

- The counselor should inform the client that positive confirmed HIV test results are reportable by law to the Maine CDC HIV, STD, and Viral Hepatitis Program. Client information is only shared with the HIV Surveillance Program. Maine CDC is required by policy and law to not share any client-identifying information without the client's written consent.
- The client must be given an opportunity to ask questions, either orally or in writing.
- Consent must be documented in writing. If the test is anonymous, the client may check a box indicating consent, but should not list any personal identifying information (for more information, see "Anonymous Testing Sites" below). If the test is confidential, the client may sign the consent document. (Please note: In clinical settings, consent can be given either verbally or in writing. The provider must indicate verbal consent in the client's notes.)
- Please see Appendix D for consent form templates.

Anonymous Testing Sites

- Maine CDC may designate sites where an individual may request an HIV test under conditions which ensure anonymity.
- When an individual chooses to be tested anonymously, staff personnel are not to ask for a person's name; nor any identifying information (address, phone, social security or Medicaid/Medicare number, insurance policy numbers, etc.). In addition, client information cannot be linked to:
 - Individual medical records
 - Request for testing
 - Testing materials or documents
 - Test results
- Should the counselor know the client seeking anonymous testing, the client should be encouraged to see a different counselor and/or given the option to test at another site. It is important to note the issue of anonymity is focused not on the individual, but the test itself.
- Donor History
 - When an HIV-positive person in an anonymous counseling session relates a history of a blood or tissue donation that may have involved HIV transmission (donation prior to May 1985, or a donation within 6 months prior to the positive HIV serology), the collection site must be notified if possible. If the test was anonymous, identifying information must be collected from the HIV-positive individual to ensure proper disposal of the donation. Maine CDC accepts the responsibility to notify a donation site of possible contamination.
- In the event of a preliminary positive rapid test result, counselors should encourage clients to switch their consent to confidential status to receive a confirmation test and facilitate ease of linkages to medical care and partner services.
 - If a client chooses to maintain anonymity, a counselor may submit a confirmatory oral fluid sample using the ID number on the CTR form used during client intake. The counselor should share the ID number with the client and identify a mutual password (which is then documented on the client CTR form), and inform the client that results will not be released to the client without both the ID number and the password.
 - Providers are responsible for establishing a protocol for how anonymous clients will receive confirmatory results.
 - Partner Services (PS)

- The CTR counselor must offer Partner Services to all recently diagnosed HIV-positive individuals (see page 27). Partner Services (PS) is an anonymous, voluntary service provided to HIV-positive clients by the Maine CDC HIV, STD, and Viral Hepatitis Program. Partner Services is a program to support and assist HIV-positive clients to inform their sex and/or needle-sharing partner(s) of their possible exposure to HIV. Partner Services is facilitated by a Linkage to Care Coordinator (LCC) or Disease Intervention Specialist (DIS). The LCC/DIS can develop a plan with the client to ensure sex and/or needle-sharing partner(s) are informed. When applicable, LCC/DIS work to maintain client anonymity is during partner notification.
 - Spousal Notification
 - A component of partner notification by which the spouse of a person infected with HIV is notified of their possible exposure to the virus and encouraged to seek testing. A spouse is any individual who is the marriage partner, as defined by state law, of an infected person, or who has been the marriage partner of that person at any time within the 10 year period prior to the diagnosis of HIV infection. Spousal notification is mandated by law and is therefore, not voluntary on the part of the infected person.
- During anonymous testing, the client is assigned the unique identifier number listed on the HIV test form which is also affixed to his/her HIV test specimen. The number is the only way for an anonymous client to access his/her test results.
- Test results will be released to the client, upon presentation of the client testing ID number or when proper identification (driver's license, passport) is displayed. Test results will not be released to any third party without a written authorization for release of test results (Appendix E) signed by the client.
- Anonymous test results or copies of the test result may not be released under any circumstances without first signing the Waiver of Anonymity (Appendix D) and then authorizing release of test results by signing an Authorization to Release Results form (Appendix E). Any client wishing his/her anonymous HIV antibody test results be made to HIV, STD, and Viral Hepatitis Program, or available to a third party must:
 - Sign Waiver of Anonymity;
 - *Please note that when a client signs the Waiver of Anonymity, their previously anonymous HIV test will be converted to a confidential HIV test.*
 - Sign Authorization to Release Results

Counseling Newly Identified Positive HIV Individuals

- Persons who test positive for HIV infection must be offered post-test counseling. Post-test counseling should ideally be offered face-to-face in a confidential setting. (Please note: this applies specifically to confirmatory HIV tests, not to rapid HIV tests.)
- **At a minimum**, post-test counseling should include a discussion of:
 - The test results and the reliability and significance of the results;
 - Information on good preventive practices and risk reduction plans; and
 - Referrals for medical care and information and referrals for support services, including social and emotional support and legal services.

- The counselor should provide the client with a written document containing information on these topics.
- The counselor should inform the client that positive confirmed HIV test results are reportable by law to the Maine CDC HIV, STD, and Viral Hepatitis Program. Client information is only shared with the HIV Surveillance Program. Maine CDC is required by policy and law to not share any client-level information without the client’s written consent.
- Please see Appendix F for Maine CDC recommendations for providing positive results to a client.

Civil Liability

- Any person violating Maine HIV Testing law is liable to the receiver of the test for actual damages and costs plus a civil penalty of up to \$1,000 for a negligent violation and up to \$5,000 for an intentional violation.

Testing Minors

- Testing providers and Maine CDC personnel may provide HIV CTR services for persons ages 13 – 18 years-old. Parental or guardian permission or notification is not necessary for a young person who presents for HIV testing.
- Confidentiality/Disclosure
 - All confidentiality and disclosure provisions of Maine Law are in effect for minors.
 - The only exception to this is if the minor is in the legal custody of the Maine Department of Health and Human Services or the Maine Department of Correction. Designated employees of these agencies are entitled access to the HIV antibody test results without the minor’s written permission.
- Rapid HIV testing is not recommended for children under the age of 13 because the tests have not been studied for use in those populations. Parents seeking testing for children under the age of 13 years should be offered or referred for conventional (venipuncture) testing.
- Please see Appendix B for the Consent of Minors for Health Services statute.

Disease Reporting

- Positive confirmed HIV test results are reportable by law (Appendix C) to the Maine CDC HIV, STD, and Viral Hepatitis Program. Client information is only shared with the HIV Surveillance Program. Maine CDC is required by policy and law to not share any client-level information without the client’s written consent.
- As required by 10-144 CMR Ch. 258 (“Rules Governing Disease Reporting”), health care providers, medical laboratories, and health care facilities are required to report confirmed positive cases of HIV by fax (207-287-3498) or telephone (207-287-3747) to the Maine HIV, STD, and Viral Hepatitis Program within 48 hours.
- Reports must contain as much of the following information as is known:
 - Patient name;
 - Patient birth date;
 - Patient race;
 - Patient ethnicity;
 - Patient sex;

- Parent or Guardian name residence address, city, county and zip code;
- Parent or Guardian telephone number;
- Patient occupation;
- Patient residence address, city, county and zip code;
- Patient phone number;
- Patient place of work, school or childcare.
- Date of report;
- Health care provider name, address and phone number;
- Name of health care facility (if any);
- Name of person reporting;
- All diagnostic laboratory findings and dates of tests relevant to the notifiable disease or condition, regardless of clinical significance; (i.e. viral load and/or CD4 lab results)
- Name and locating information of contacts;
- Other information pertinent to the case as requested by the Department.
- See Appendix C for the “Control of Notifiable Diseases and Conditions” statute. The “Rules Governing Disease Reporting” document may be viewed at:
<http://www.maine.gov/sos/cec/rules/10/144/144c258.doc>

Mandatory Reporting of Abuse

- All health care providers and social workers are mandated reporters of any suspected or known cases of abuse/neglect. If the counselor occupies roles identified in the statute, they are required to report suspected or known cases of abuse/neglect. Such reports are made to the Department of Health and Human services at:
http://www.maine.gov/dhhs/mandated_reporters.shtml
 - Counselors are mandated to report any suspicion of child abuse, which includes statutory rape (sexual intercourse with a minor). It is illegal to engage in a sexual act with someone less than 14 years of age regardless of the age of the acting partner. A child who is less than 16 years of age cannot consent to sexual acts with the following exceptions:
 - Engaging in a voluntary sexual act with a victim who is at least 14 years of age and less than 16 years of age is not illegal if the acting partner is less than 5 years older than the victim.
 - Voluntary sexual contact with a victim who is at least 14 years of age and less than 16 years of age is not illegal if the acting partner is less than 10 years older than the victim.
 - Voluntary sexual contact with a victim under 14 years of age is not considered to be unlawful sexual contact if the defendant is less than 3 years older than the victim.
 - Voluntary sexual touching with a victim under 14 years of age is exempted from prosecution if the defendant is less than 5 years older than the victim.
 - The statute on sexual assaults (17-A MRSA § 251-261) is available at:
<http://www.mainelegislature.org/legis/statutes/17-A/title17-Ach11.pdf>
- In anonymous testing situations, counselors are required to uphold HIV testing statutes and maintain client anonymity. Counselors should offer the client referrals to address suspected abuse or neglect.

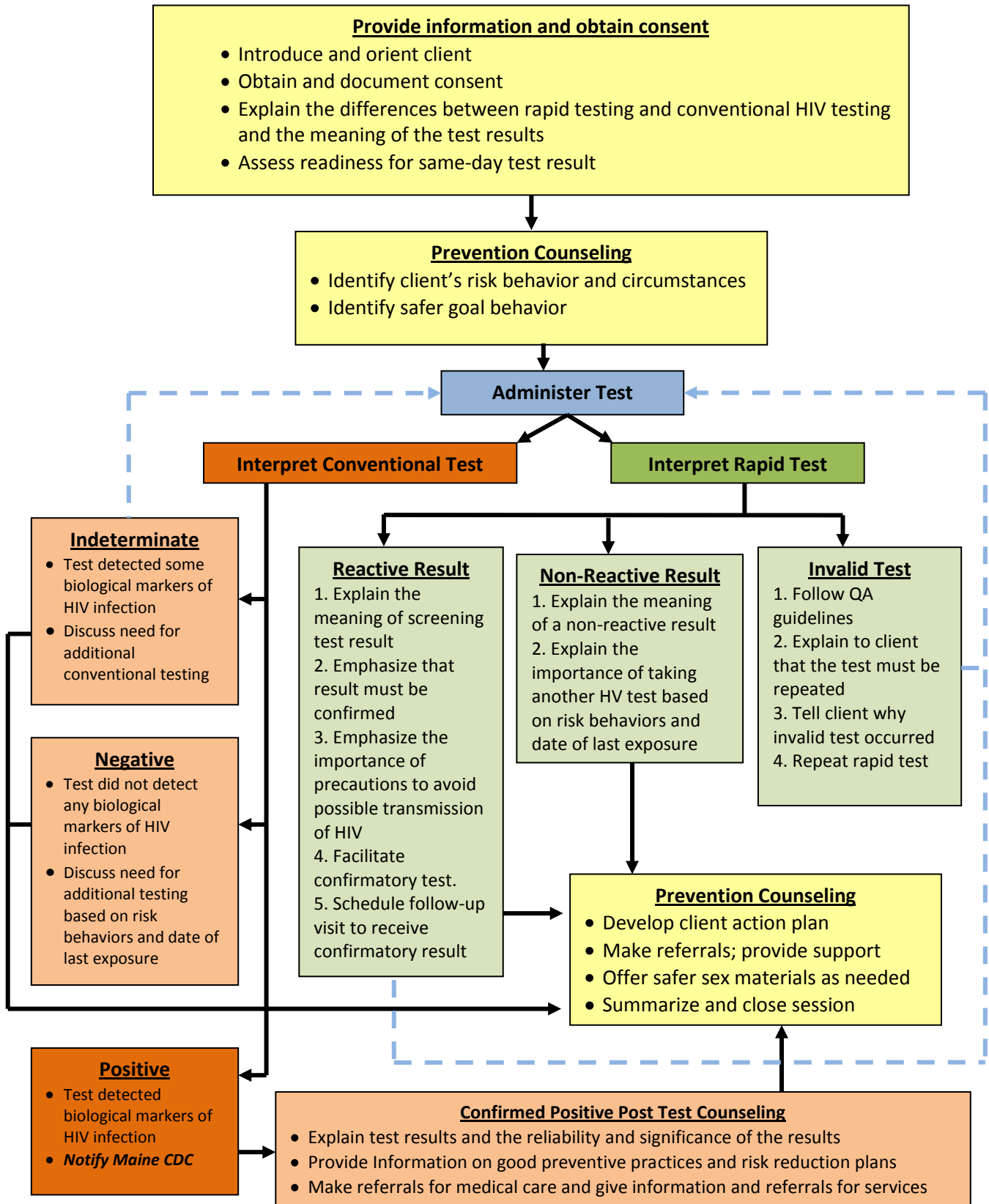
- Providers must establish a written protocol for abuse/neglect reporting on site. Client testing information and results may not be released as a part of reporting suspected abuse or neglect.
- Providers must establish and maintain a written protocol and referral process to address situations where a client threatens to endanger themselves or others (threats of violence or suicide), or in the event of a life-threatening medical emergency (cardiac arrest, shock, severe injury, etc.)

Other Laws & Regulations Pertaining to HIV Testing

For additional information about HIV testing and sexual assault, or HIV testing and Occupational Exposure, please see Appendix A.

The Maine CDC HIV, STD, and Viral Hepatitis Program HIV Transmission Prevention Policy describes the responsibilities of Maine CDC and procedures taken for controlling disease respect to people living with HIV/AIDS and who are non-compliant (i.e. failing to inform their sex and/or needle-sharing partners of their serostatus prior to engaging in activities that share HIV-infected fluids). The policy can be viewed at <http://www.maine.gov/dhhs/mecdc/infectious-disease/hiv-std/provider/documents/htp-policy.pdf>.

HIV Counseling, Testing, and Referral Flowchart



Maine CDC HIV Testing Algorithm

Maine HIV, STD, and Viral Hepatitis Program requires providers performing HIV testing in a non-clinical community setting on behalf of Maine CDC to use a single rapid HIV test for screening. If a rapid HIV test is reactive (preliminary positive), a specimen needs to be collected for supplemental laboratory testing to confirm the results (i.e. confirmatory testing). Clients will be unable to access services such as ADAP (AIDS Drug Assistance Program) without a documented confirmed HIV-positive test result.

The confirmation sample for confirmatory HIV testing can either be:

- Serum or plasma sample collected through venipuncture. The sample is then submitted to the State of Maine Health and Environmental Testing Laboratory.
- Oral Mucosal Transudate sample collected with an OraSure Conventional Test Kit purchased by Maine CDC HIV, STD, and Viral Hepatitis Program. This sample is submitted to the laboratory designated by the Maine HIV, STD, and Viral Hepatitis Program.

If a client self-identifies as having already received a preliminary positive result, providers may submit a confirmatory sample for confirmatory HIV testing.



Maine CDC Expectations and Standards

Counselor Training

Prior to engaging in HIV testing, all people performing CTR services in a non-clinical community setting are required to be trained and certified by Maine CDC and/or submit proof of out-of-state certification equivalence and submit to a proficiency test prior to receiving Maine CDC certification.

The training is designed to increase counselors' skills and to provide HIV prevention counseling tasks. The HIV prevention counseling tasks include:

- Improving the client's self-perception of risk
- Supporting behavior changes already attempted
- Negotiating a risk reduction plan
- Supporting decision-making about the antibody test
- Helping clients who have been tested accept the results.

Counselor certification status is contingent on ability to demonstrate proficiency in counseling, testing, and referral skills, as well as conducting and correctly interpreting rapid HIV test technology. Please refer to the Quality Assurance section below for more information on Counselor Certification.

High Quality CTR Standards of Service

The Maine HIV, STD, and Viral Hepatitis Program expects that providers offering CTR services at Maine CDC designated sites adhere to high quality standards of service. These standards are intended to ensure that each client receives the same quality of treatment regardless of location, age, race, risk, etc. The following list explains the core standards for HIV CTR services for counselors providing tests in non-clinical community settings within the State of Maine.

Counselors providing CTR should:

- Be client-centered
 - Counselors should be sensitive to the client's needs. This is accomplished by focusing on the client's feelings, managing personal discomfort, and maintaining boundaries for what a counselor can and cannot do for the client within the CTR session.
- Be accessible to clients (e.g. culture, language, literacy levels, disability, etc.)
 - Services should be organized to minimize physical, social, cultural, linguistic, and/or economic barriers to the client
 - In order to improve accessibility, CTR counselors may need to use translation services to communicate with a client. Please see the section below for more information about translation services
- Be accountable to laws (see prior section for more information)
 - CTR must be voluntary
 - CTR must be consensual. Consent must be documented by the CTR counselor
 - CTR must be confidential
 - Client is informed of HIV antibody nature and reliability of test, limitations, meaning of potential results

- Positive HIV cases are reportable to the Maine CDC HIV, STD, and Viral Hepatitis Program
- Contain both pre and post-test counseling
- Refer to and link positive cases to medical care, partner services, and prevention services
 - See information about referrals in section below
- Ensure that the client receives information to reduce risk of acquiring or transmitting HIV
- Ensure that test results are interpreted correctly
- Provide referrals and materials that support risk reduction, including condoms
- Ensure CTR counselors adhere to HIV Testing Quality Assurance and Quality Control standards according to manufacturer standards (e.g. testing procedure followed, controls, logs of temp and controls run, etc.)

High Risk Criteria, Risk Assessment, and Risk Reduction

Non-clinical community sites providing CTR on behalf of Maine CDC are required to provide HIV testing services to populations at high risk of acquiring or transmitting HIV who are unaware of their serostatus (see Appendix G for risk criteria for no-cost HIV tests). These providers will prioritize their testing program to offer tests primarily to individuals who qualify based on risk criteria. Criteria are subject to change based on epidemiologic data and/or funding. Please refer to the HIV Test Criteria in Appendix G. Additionally, client risk assessment is necessary for quality assurance activities. Client risk is documented on the CTR form using the behavioral risk categories and/or local use codes (see Appendix H).

Identification of risk is important for the counselor to educate clients on methods that will reduce their risk of acquiring or transmitting HIV. If a client who declines to identify their personal risk behaviors, it must be documented on the CTR Test form. Please note, however, providers that are providing CTR services under contract with Maine CDC are required to meet performance-based contract measures of targeted HIV testing. Providers and counselors who are not meeting performance-based contract goals (i.e. submitting forms without any identifying risk information) will be assessed to assure that client confidentiality and security is being established, that counseling service standards are used during a counseling session, and that proper documentation is occurring .

Behaviors that increase a clients' chance of acquiring or transmitting HIV include:

- Men who have unprotected anal sex with other men (MSM);
- An individual who shares needles or equipment used for injecting drugs or other substances;
- An individual who has had unprotected anal or vaginal sex with a known HIV-positive individual;
- An individual who has had unprotected anal or vaginal sex with a known person who injects drugs or other substances

Additionally, certain populations, such as racial or ethnic minorities or people who identify as transgender, are disproportionately at risk for acquiring HIV based on a variety of social and personal factors.

There are multiple factors that affect a client's risk behaviors. These include, but are not limited to:

- Knowledge of HIV risks
- Perceived risk of acquiring HIV or STDs

- Actual risk of acquiring HIV or STDs
- Personal beliefs or intentions
- Influence of perceived social norms
- Skills (i.e. putting on a condom, negotiating safer sex with a partner)
- Self-efficacy (belief that they can perform an activity)
- Access to services or materials
- Policies that support or hinder risk reduction

Because behavior and risk reduction is a complex, multi-faceted process, CTR counselors should support harm reduction principles to reduce risk of acquiring and transmitting HIV (provided that their operating agency supports such strategies). Harm reduction is a set of practical strategies and ideas aimed at reducing negative consequences associated with risky behaviors by incorporating a spectrum of strategies designed to reduce HIV risk incrementally. Harm reduction strategies recognize that some risk behaviors have less risk of transmitting HIV than others, and can include strategies from condom use, cleaning needles or works prior to injection drug use, to abstinence from sex or drug using. Because each client has a different set of circumstances and personal experiences, harm reduction must be client-centered and tailored to the clients' unique needs, abilities, and access to resources. Ultimately, harm reduction strategies recognize that the client is responsible for reducing their risk, and empowers the client to adopt behaviors that are realistic and achievable to the client.

Testing

Providers and counselors providing HIV testing services funded by Maine CDC must adhere to quality assurance standards established by the rapid test manufacturer and within this guidance document (see Quality Management Section).

An HIV CTR counselor may refuse to test an individual who:

- Has expressed intent to harm self or others;
- Is perceived to be under the influence of alcohol and/or other drugs;
- Has expressed emotional instability; or
- Has expressed an inability to understand HIV CTR for any other reason(s).

In any case such as these, the client should be told the reason(s) for refusal of the counseling session and/or test and should be encouraged to seek support, offer any referrals if possible, and return for testing at a later date. Refusal must be documented on the CTR form.

Counselors must use the HIV test data collection form (CTR form) provided by the HIV, STD and Viral Hepatitis Program to document patient demographics, test-related information and results, and risk factors. Completed forms will provide the basis for quality assurance monitoring and will be subject to review by the HIV, STD and Viral Hepatitis Program. Please see page 19 for more information about test forms.

Delivering HIV Test Results

The purpose of rapid HIV antibody testing is to increase knowledge of HIV status, and offers an opportunity to ensure that the tested individuals receive their results within the testing session.

Counselors offering rapid HIV antibody tests must be trained and demonstrate proficiency in interpreting test results (see Quality Assurance section below).

Rapid HIV test results include:

- Negative – No HIV antibodies detected
 - Persons whose rapid HIV antibody test is negative should be informed about the meaning and significance of results, including information about testing window period.
- Invalid
 - If a rapid HIV antibody test is invalid, counselors should repeat the test with a new device. If the second test is also invalid, the counselor should cease testing with the client and encourage them to come back at a later date or refer to another testing service. The counselor should then engage in quality assurance protocols according to manufacturer standards (i.e. run controls, check storage temperature, report test lot numbers to the Maine CDC HIV, STD, and Viral Hepatitis Program and manufacturer, etc.).
- Rapid Reactive (Preliminary Positive) – HIV antibodies detected
 - A client who has a rapid reactive HIV antibody test must be offered a confirmatory HIV test, which can be performed either by the counselor or be referred out to another agency.

A confirmatory HIV test may have the following results:

- Positive – the HIV test detected biological markers for HIV infection
- Negative – HIV test did not detect biological markers for HIV infection
- Indeterminate – the HIV test detected some but not all biological markers of HIV infection

Whenever possible, the client is to be given their test results in person as soon as possible. Provision of test results is not to be arbitrarily delayed. Positive confirmed HIV results should be delivered to the client within 5 days.

The Maine CDC HIV, STD, and Viral Hepatitis Program must be notified of confirmed HIV positive test results within 2 days of receipt of laboratory results. The counselor should contact Maine CDC HIV, STD, and Viral Hepatitis Program and, if possible, arrange to have a Linkage to Care Coordinator/DIS present to assist with the delivery of positive confirmation results if needed and to facilitate with linkages to medical care, partner services, and prevention services.

Confirmed test results will be released to the client, upon presentation of the client testing ID number (if the test was anonymous) or when proper identification (driver's license, passport) is displayed. Test results will not be released to any third party without a written authorization for release of test results (Appendix E) signed by the client, unless the test was performed pursuant to a court-ordered disclosure, or if the client is in the custody and/or care of the state.

Persons who have a confirmed positive HIV test must be offered post-test counseling. Post-test counseling should ideally be offered face-to-face in a confidential setting.

At a minimum, post-test counseling should include a discussion of:

- The test results and the reliability and significance of the results;
- Information on good preventive practices and risk reduction plans; and
- Referrals for medical care and information and referrals for support services, including social, emotional support and legal services.

The counselor should provide the person being counseled with a written document containing information on these topics.

The counselor must inform the client that positive confirmed HIV test results are reportable by law to the Maine CDC HIV, STD, and Viral Hepatitis Program. Client information is only shared with the HIV Surveillance Program. Maine CDC is required by policy and law to not share any client-level information without the client's written consent unless the test was performed pursuant to a court-ordered disclosure, or if the client is in the custody and/or care of the state.

Please see Appendix F for Maine CDC recommendations for providing positive results to a client.

A counselor should not reveal results of an HIV test to the client if they meet any of the aforementioned reasons to deny testing (i.e. expressed intent to harm self or others, is in crisis, under the influence of alcohol or drugs, etc.). If a counselor has reason to believe that a client may not be prepared to hear results, it is recommended that they seek the advice of an immediate supervisor or contact the Maine CDC HIV, STD, and Viral Hepatitis Program for support.

Ideally, positive results should not be given on Fridays or on the day before a holiday to ensure that referrals and resources are available to the client.

All CTR providers must make a good faith effort (within legal rights and limits) to inform a client of their positive HIV test results, regardless of the nature of the testing (confidential or anonymous). If after those efforts, the client does not return within 2 weeks of receipt of lab results, the counselor must notify their supervisor and forward all identifying and locating information to the Maine HIV, STD, and Viral Hepatitis Program for follow-up.

If a provider has multiple incidences of false positive results (e.g. rapid positive antibody results followed by negative confirmed test results), they should contact the Maine HIV, STD, and Viral Hepatitis Program and the test manufacturer as soon as possible.

Referrals and Linkages

Referrals and linkages are important to high quality CTR services, and are intended to help the client in reducing their risk of acquiring or transmitting HIV. Referrals must be client centered and be approved by the client prior to facilitating an active referral. Providers are required to develop, maintain, and implement written procedures detailing how linkages will be established and confirmed for the following:

- partner services for positive HIV cases;
- medical care for HIV infection;
- prevention services for positive HIV cases;
- primary care site(s) (such as Federally Qualified Health Care centers);

- enrollment in health care insurance or related programs;
- substance abuse treatment programs;
- mental health services;
- domestic violence and sexual assault interventions, and
- any other referral that supports risk reduction.

Counselors should be knowledgeable of the services accessible to the client. Providers should ideally establish memoranda of agreement (MOAs) with local referral agencies to assure ease of referral, high standards of service, and accountability. Client confidentiality or anonymity must be maintained when making a referral.

Interpreter Services

When a CTR Provider utilizes the services of a language (foreign or sign) interpreter, provider staff is to advise the interpreter of the need for client confidentiality and the legal penalties associated with breaches of confidentiality. The interpreter must read and sign a confidentiality statement prior to rendering services. Use of an interpreter should be documented on the client confidentiality form and should include the name of the interpreter. View Appendix E for third party confidentiality release forms. Visit the DHHS website for more resources on multicultural services:

<http://maine.gov/dhhs/oma/MulticulturalResource/index.html>

Data Reporting & Forms

Providers that perform CTR services on behalf of the Maine CDC HIV, STD, and Viral Hepatitis Program must adhere to data reporting standards established by Maine CDC. Counselors must use the HIV test data collection form provided by the Maine CDC HIV, STD, and Viral Hepatitis Program to document patient demographics, test-related information and results, and risk factors. Completed forms provide the basis for quality assurance monitoring and will be subject to review by the HIV, STD and Viral Hepatitis Program. For information on completion of the CTR forms, please contact the HIV, STD, and Viral Hepatitis Program at (207) 287-3747.

The CTR test form is a 2-part carbon copy form. The top sheet is submitted to the Maine CDC HIV, STD, and Viral Hepatitis Program, and the bottom sheet must be kept for agency records and follow-up. CTR Forms and the CTR monthly cover sheet (see Appendix I) must be submitted to the HIV, STD, and Viral Hepatitis Program no later than 10 days after the end of the month. To ensure security of data, providers are encouraged to mail CTR forms with some means of tracking and delivery notification.

Providers funded by Maine CDC should refer to their contracts for any additional data reporting requirements.

Record Keeping & Data Security

At a minimum, all counseling and testing forms and lab slips should be kept in a locked file cabinet or drawer at all times when not in use by program personnel, and access should be restricted to those with a legitimate professional need i.e., direct service providers, supervision of counselors, data collection, or to conduct chart reviews. As practical, office spaces should be locked and alarmed when unoccupied.

Records and data should be transported off site only when absolutely necessary. Individuals transporting records or data that contains restricted information (i.e. containing personal identifying information) should take extra care to safeguard these data and restore data to locked storage as soon as possible. When possible, data should be transported in locked briefcases or lockable file carriers.

The *Data and Security and Confidentiality Guidelines for HIV, Viral Hepatitis, Sexually Transmitted Disease, and Tuberculosis Programs* is a tool available to providers to enhance the storage and security of identifiable and nonidentifiable data. The document can be accessed at <http://www.cdc.gov/nchhstp/programintegration/docs/PCSIDataSecurityGuidelines.pdf>.

Anonymous Records

- If an anonymous client has returned for follow-up counseling, regardless of result, records must be stored for six months (from date of testing) and may then be confidentially destroyed.
- If an anonymous client has a negative test result and has not returned for follow-up counseling, records must be kept for six months (from date of testing) and may then be confidentially destroyed.
- If an anonymous client has a positive test result and has not returned for follow-up counseling, the record must be kept for one year (from date of testing) and may then be confidentially destroyed.

Confidential Records

- All confidential client files are to be stored for seven (7) years (from date of testing) and may then be confidentially destroyed.
- When used to provide confidential services, the client's file will contain the tested individual's name, locating information, counseling form, written informed consent, and test result.
- When a client requests his/her test result be given to a third party, the client must fill out and sign an Authorization to Release Test Results Form (see Appendix E). This release form must be filed as part of a client's confidential record.

Providers funded by the Maine CDC HIV, STD, and Viral Hepatitis Program are required to have a Privacy Policy.

Billing Policy

Maine CDC is the payer of last resort for HIV testing. If an agency has the capacity to bill 3rd party insurance companies, and the client presents as having insurance, the agency should bill the insurance company for reimbursement of services.

Quality Management

The purpose of the CTR Quality Management Program is to develop and apply standards of practice in order for CTR services in Maine to be of a uniformly high quality, and to provide a visible indication of that quality to consumers and funders.

Quality assurance (QA) refers to a planned, step-by-step activities that let one know that CTR is being carried out correctly, results are accurate, and mistakes are found and corrected to avoid adverse outcomes. QA is an ongoing set of activities that help ensure that the test results provided are as accurate and reliable as possible for all persons being tested. QA activities should be in place from the time a person asks to be tested using the rapid HIV test to the time of the test result.

The Maine HIV, STD, and Viral Hepatitis Program has an established quality management plan that consists of: a core curriculum of training for CTR test counselors and agency directors (CTR site administrators); ad hoc training related to data submission, appropriate documentation, performance measures, and quality improvement that are presented and updated as needed; semiannual and annual reporting on performance measures; annual on-site review of HIV testing quality control measures; triennial evaluation of testing counselor skills; and annual on-site monitoring of subgrantees.

The following are the goals and performance standards of the Maine CDC CTR program:

GOALS	PERFORMANCE STANDARDS	INDICATORS	DATA SOURCES	TARGETS
CTR services provide tests to people at high risk	Contracted sites will offer HIV tests.	Number of CTR forms received	CTR forms	100% of test sites will meet (or exceed) their contracted testing goal.
	Tests are provided to individuals at high risk or from disproportionately affected populations.	High risk tests completed/ number of tests for target population in contract	CTR forms	90% of all CTR tests performed are among contracted targeted risk populations
CTR services identify people who are HIV-positive and don't know their status	CTR non-healthcare test sites maintain a seropositivity rate consistent with Maine CDC standards.	Number of positives/ total number tested	CTR forms; surveillance data	CTR non-healthcare test sites maintain at least a 1% seropositivity rate. Healthcare sites maintain a 0.1% seropositivity rate.
	Counselors give test results to individuals in a timely manner.	Number of test results received/ number of all tests	CTR forms	90% of all CTR tests receive their test results.
	All individuals diagnosed with HIV are notified of their test results within 5 days.	New positives receiving their results/ total number of positive cases	CTR forms; surveillance data	100% of newly diagnosed HIV positive cases receive their results within 5 days of receipt of lab result.

GOALS	PERFORMANCE STANDARDS	INDICATORS	DATA SOURCES	TARGETS
Link HIV-positive people to care and services	Individuals diagnosed with HIV are linked to medical care.	surveillance confirms CD4/VL labs; percentage of CTR 2 form indicators	CTR forms; surveillance data	At least 70% of people diagnosed with HIV are linked to and attends HIV medical care within 90 days.
	Individuals diagnosed with HIV are linked to partner services.	Surveillance confirms partner service referral/ interview; percentage of CTR 2 form indicators	CTR forms; surveillance data	100% of newly diagnosed HIV positive cases are linked to partner services within 2 weeks.
	Individuals diagnosed with HIV are linked to prevention services.	CTR Part 2 forms indicate referral and linkage; Ryan White confirms enrollment in care (through surveillance program)	CTR forms; surveillance/ Ryan White data	100% of newly diagnosed HIV positive cases are linked to prevention services within 2 weeks.
CTR Counselors will provide high quality services	CTR forms are complete.	Number of complete forms/ total forms	CTR forms	95% of CTR forms received have complete information.
	CTR counselors correctly interpret results.	Staff are trained; staff pass QA Monitoring & Evaluation tools and tests; Testing QA (control logs)	Training records; QA records & logs	100% of counselors will demonstrate their HIV testing proficiency by passing quality assurance tests with a score of at least 75%.
	CTR counselors follow standards laid out in guidance and contracts (i.e. confidentiality, voluntary, access, training plan, etc.).	Site visit tool; timely reports; attendance at provider meetings; etc.	Completed site visit tool; quarterly reports; CTR forms; sign-in sheets	90% of site visit tool complete

Expectations for Sites Performing CTR on Behalf of Maine CDC

- All sites that conduct CTR services in partnership with the Maine HIV, STD, and Viral Hepatitis Program must adhere to operational standards and quality assurance measures. The HIV/STD Prevention Program provides technical assistance and oversight of quality assurance requirements. Through the Maine CDC HIV, STD, and Viral Hepatitis Program data collection process, testing sites may request HIV testing statistics for their agency as well as statewide statistics.
- Counselors who wish to provide CTR services in a non-clinical setting on behalf of Maine CDC must attend a Maine CDC HIV Counselor training program or provide proof of competency. This training must be completed prior to engaging in CTR services.

- Counselors who provide CTR services on behalf of Maine CDC must adhere to operational and quality assurance standards established by the test technology manufacturer.
- Counselors conducting rapid HIV testing on behalf of Maine CDC must attend a Maine CDC HIV, STD, and Viral Hepatitis Program or Maine CDC-approved rapid testing training. This training must be completed prior to engaging in rapid testing activities.
- Counselors and providers must comply with all Maine state laws and regulations regarding HIV testing.
- Providers funded by Maine CDC to provide CTR services must participate in a site visit once per year, conducted by Maine CDC HIV, STD, and Viral Hepatitis Program staff, and comply if the Maine CDC HIV, STD, and Viral Hepatitis Program requests additional visits.
- Providers funded by Maine CDC to provide CTR services must have at least one staff member attend mandatory Maine CDC HIV, STD, and Viral Hepatitis Program meetings.
- Providers providing CTR services on behalf of Maine CDC must participate in the quality assurance program, including the annual Counselor Knowledge Evaluation, Client Satisfaction Surveys, and the Rapid Testing Competency test (for rapid testing sites)
- Providers providing CTR services on behalf of Maine CDC must ensure complete and accurate submission of all data and reports as required by the Maine CDC HIV, STD, and Viral Hepatitis Program.
- Providers providing CTR services on behalf of Maine CDC will comply with any other requests for information regarding activities undertaken.

Quality Assurance Monitoring and Evaluation Tools

The Maine CDC HIV, STD, and Viral Hepatitis Program employs a wide array of tools to monitor and improve the quality of HIV testing occurring in the field. These include:

- Data from CTR forms
- Rapid HIV Test QA Records and Logs
- Site visits
- CTR Counselor Training and Certification
- Counselor Knowledge Evaluations
- Counselor Observation Evaluations
- Client Satisfaction Surveys

Site Visits

The Maine CDC HIV, STD, and Viral Hepatitis Program will conduct site visits with providers that receive funds to perform CTR services. During each site visit, Maine CDC HIV, STD, and Viral Hepatitis Program staff will review

- staff issues (i.e. staff qualifications, number of available testers, training),
- program participation (strategies to reach target results, confidentiality issues, practices for providing negative results),
- program fidelity (i.e. possessing of CTR Guidance Document and other resources, written plan for referrals, adequate space to perform testing), reporting requirements and record keeping (i.e. review of agency specific statistics, maintenance of data security), evaluation program (i.e. why and when QA measures are performed), and
- fiscal management (i.e. the budget process and expectations of funded and indirectly supported sites).

Sites that are conducting rapid HIV testing also undergo a complete review of their rapid testing program during site visits. This includes:

- ensuring that a CLIA Certificate is located on site,
- that the data collection process is clear for rapid testing,
- that the site has all the materials from the manufacturer and has the knowledge of the contents of those materials,
- that all required manuals are complete and in place (i.e. exposure control manuals, laboratory quality manuals, and procedure manuals,
- that the site has an understanding of the use for all required forms and logs,
- that the protocols for use of rapid test device is are clear, and
- that the site has participated in the Rapid HIV Testing and Competency Evaluation Process.

Counselor Certification

Counselor certification status is contingent on ability to demonstrate proficiency in counseling, testing, and referral skills, as well as conducting and correctly interpreting rapid HIV test technology based on

evaluation of knowledge and skills. Counselors are required to maintain their certification by performing a minimum of 5 HIV tests annually.

Counselors performing CTR services on behalf of Maine CDC must maintain certification by participating in the following evaluation activities:

- Counselor Knowledge Evaluation – annually
- Counselor Observation Evaluation – every three years
- Rapid HIV Testing Competency Evaluation – annually

These evaluation activities will occur during annual site visits when possible.

Counselors performing CTR services on behalf of Maine CDC are required to obtain a Tester ID from Maine CDC HIV, STD, and Viral Hepatitis Program. This ID is unique to the counselor and may not be reassigned or used by any other counselor. It is the responsibility of providers to inform the Maine CDC HIV, STD, and Viral Hepatitis staff of counselor changes either by telephone or in writing. Possible changes include, but are not limited to:

- Change in active or inactive status
- Change of last name
- Transfer from a program

Counselor Knowledge Evaluation

The Counselor Knowledge Evaluation (CKE) is a tool to assess CTR Counselors' level of knowledge and competency. The CKE consists of questions about basic HIV/AIDS knowledge, HIV antibody testing, HIV testing and counseling skills, Maine state laws, and standards for giving HIV test results. Every active counselor is required to take the CKE yearly and must receive a score of 75% or higher. Remedial steps are available for those who do not meet the minimum requirements. The Counselor Knowledge Evaluation may be taken online or on paper in the presence of Maine CDC HIV, STD, and Viral Hepatitis Program staff.

Counselor Observation Evaluation

The Counselor Observation Evaluation (COE) is another tool to assess the application of a CTR counselors' knowledge and skills in performing high quality HIV testing. CTR counselors are observed during a HIV testing session and evaluated on their professionalism (cultural competency, sensitivity to issues of sexual identity, use of developmentally appropriate information, use of linguistically specific communication, etc.), effective delivery of relevant HIV information (as per Maine state law), HIV pre-test counseling skills in settings that promote targeted testing (client-centered counseling, client risk assessment, clarification of important misconceptions, use of interactive communication skills, employing relevant and unstructured sessions, use of appropriate documentation, creation of risk reductions plan, etc.), and HIV post-test counseling skills (client-centered counseling, review of risk reduction plans, assistance with referrals, use of appropriate documentation, etc.). New counselors should be formally observed by their supervisors using the observation instrument after three months and six months of beginning their testing work to demonstrate competency. Thereafter, observation evaluations are performed on all counselors every three years by a Maine CDC HIV, STD, and Viral Hepatitis Program staff person. Feedback is provided to each counselor. Observation forms are

submitted to the Maine CDC HIV, STD, and Viral Hepatitis Program and a report is generated for the site with a summary of the findings.

Client Satisfaction Survey

The Client Satisfaction Survey (CSS) is a measure of good quality service. The CSS measures client satisfaction with the availability and accessibility of services, the quality of services (i.e. technical competence, complete and accurate information, results, etc.), and behavioral elements (i.e. respect, understanding, fairness, confidentiality, etc.). All providers administer the survey every other year. Results of this survey are analyzed and returned to each site so that they know what they are doing well and where they need to take measures to improve.

Rapid HIV Testing Competency Evaluation

The Rapid HIV Testing Competency Evaluation (for sites who provide rapid HIV testing) is designed to ensure that rapid testing is carried out correctly, results are accurate and mistakes that are found are corrected to avoid problems. The evaluation consists of the reading of results from a panel and observation of the counselor conducting the test by a qualified trainer during training and an annual exam.

Maine CDC Supports for Community Providers and Clients

Maine CDC Services to Providers

Maine CDC supports providers of HIV prevention CTR services and understands that the delivery of quality services is an on-going endeavor. To this extent, Maine CDC HIV, STD, and Viral Hepatitis Program will continuously provide leadership in both delivery of service and research with regards to CTR including:

- Improving access to HIV testing technology;
- HIV Prevention Counseling, Testing, and Referral Trainings;
- Other trainings as requested
- Provide consultation and technical assistance when needed or requested;
- Coordinate state-wide collaborative events to strengthen HIV testing accessibility;
- Support, enhance, encourage, and facilitate provider networking statewide;
- Create and assist in the development of quality assurance measures for CTR services including evaluation activities in order to improve services and service delivery; and
- Establish and maintain research contacts nationwide in an effort to remain up-to-date with national CTR activities.

Maine CDC Services to Seropositive Clients

Every positive HIV test result reported to the Maine CDC HIV Surveillance Program receives immediate attention from the HIV, STD, and Viral Hepatitis Program. This takes the form of an interaction with the submitting provider to inform them of, or confirm, a positive result, to gather statistical information on the seropositive client, and to offer follow-up counseling, support, PS, and referral(s) to local resources available to the client.

Providers may contact Maine CDC HIV, STD, and Viral Hepatitis Program for referral and linkage assistance HIV-positive clients from the Linkage to Care Coordinator (LCC) or Disease Intervention Specialist (DIS). Upon receipt of a reported HIV-positive result, the Maine CDC HIV, STD, and Viral Hepatitis Program LCC or DIS may contact the submitting test provider for additional information and to discuss issues related to:

- Referrals for medical, financial and other support services;
- Accessing PS;
- Donor history; and
- Addressing any questions, concerns, or needs of the counselor.

Maine CDC HIV, STD, and Viral Hepatitis Program is committed to providing ongoing support to people living with HIV by offering Partner Services, Ryan White case management services, AIDS Drug Assistance Program services,

Partner Services (PS)

PS refers to a prevention activity, conducted by Disease Intervention Specialists (DIS) or Linkages to Care Coordinator (LCC), that aims to provide services to HIV-infected individual and their sex and/or needle-sharing partner(s) in order to reduce their risk for infection or, if already infected, prevent transmission to others; and to help partners gain early access to individual counseling, HIV testing, medical evaluation, and other prevention and support services.

Partner Services (PS) is an anonymous, voluntary service provided to HIV-positive clients by the Maine CDC HIV, STD, and Viral Hepatitis Program. Partner Services is a program to support and assist HIV-positive clients to inform their sex and/or needle-sharing partner(s) of their possible exposure to HIV. The LCC/DIS can develop a plan with the client to ensure sex and/or needle-sharing partner(s) are informed. When applicable, LCC/DIS work to maintain client anonymity is during partner notification.

PS consists of four types of referrals by which partners of a source patient can be notified of their possible exposure to HIV.

1. Self-referral: A source patient informs partner(s) of his/her status and refers said partner(s) to counseling, testing, and referral services.
2. Dual referral: A source patient informs partner(s) of his/her status in the presence of the DIS
3. Contract referral: A source patient agrees to refer partner(s) by a specified date and by a method that has been agreed upon by the DIS and the source patient. If referral has not been verified by the specified time period, the DIS may conduct a provider referral.
4. Provider referral: The DIS, with consent from the source patient, contacts partner(s) and refers them to counseling, testing and referral services.

The Maine CDC HIV, STD, and Viral Hepatitis Program assumes responsibility to encourage and assist the client to ensure that sex and/or needle-sharing partner(s) is/are informed of possible HIV infection.

- When an HIV-positive individual requests assistance from the Maine CDC HIV, STD, and Viral Hepatitis Program to notify sex and/or needle-sharing partner(s) either in Maine or out of state, this service is performed discreetly and confidentially by a public health employee. The HIV positive individual's name will not be disclosed to partners.
- If an HIV-positive individual is unwilling or unable to notify their sex and/or needle-sharing partner(s), the CTR counselor should offer the individual the assistance of a DIS when contacting sex and/or needle-sharing partner(s) of possible HIV infection.
- It is recommended that the one year preceding the positive test result be used as the standard period of time to consider when discussing previous sex and/or needle-sharing partner(s). In some cases, it may be necessary to go back further; and in others, it may not be necessary to go back as far. This depends on the client's risk history and HIV antibody testing history and may be determined with the assistance of a DIS.
- Spousal Notification
 - A component of partner notification by which the spouse of a person infected with HIV is notified of their possible exposure to the virus and encouraged to seek testing. A spouse is any individual who is the marriage partner, as defined by state law, of an infected person, or who has been the marriage partner of that person at any time within

the 10-year period prior to the diagnosis of HIV infection. Spousal notification is mandated by law and is therefore, not voluntary on the part of the infected person.

CONTACT INFORMATION

For any questions or clarification about topics discussed in this document, please contact the Maine HIV, STD, and Viral Hepatitis Program at (207) 287-3747.

Maine CDC HIV, STD, and Viral Hepatitis Program
SHS 11
Augusta, ME 04333

The Maine CDC HIV, STD, and Viral Hepatitis Program webpage can be viewed at <http://mainepublichealth.gov/hiv>.

APPENDIX

- APPENDIX A: MAINE HIV TESTING LAWS
- APPENDIX B: CONSENT OF MINORS TO TEST LAWS
- APPENDIX C: DISEASE REPORTING LAW AND RULES
- APPENDIX D: CONSENT FORM TEMPLATES
- APPENDIX E: RELEASE OF INFORMATION FORM TEMPLATES
- APPENDIX F: GIVING POSITIVE TEST RESULTS RECOMMENDATIONS
- APPENDIX G: HIGH RISK CRITERIA FOR NO-COST HIV TESTING
- APPENDIX H: LOCAL USE CODES FOR IDENTIFYING HIGH RISK CRITERIA
- APPENDIX I: CTR FORM COVER SHEET

APPENDIX A: MAINE HIV TESTING LAWS

More information can be found at:

<http://www.mainelegislature.org/legis/Statutes/5/title5ch501sec0-1.html>

**Maine Revised Statute Title 5, Chapter 501: MEDICAL CONDITIONS
Table of Contents**

Part 23. PUBLIC HEALTH Error!
Bookmark not defined.

Section 19201. DEFINITIONS 31

Section 19202. MAINE HIV ADVISORY COMMITTEE 33

Section 19203. CONFIDENTIALITY OF TEST 35

Section 19203-A. VOLUNTARY INFORMED CONSENT REQUIRED 37

Section 19203-B. ANONYMOUS TESTING SITES..... 39

Section 19203-C. JUDICIAL CONSENT TO HIV TEST..... 39

Section 19203-D. RECORDS 41

Section 19203-E. HIV TEST AFTER CONVICTION FOR SEXUAL ASSAULT (REPEALED)
43

Section 19203-F. HIV TEST AFTER CONVICTION FOR SEXUAL ASSAULT 43

Section 19204. RESTRICTIONS UPON REVEALING HIV TEST RESULTS (REPEALED)
43

Section 19204-A. COUNSELING NEW HIV CASES 44

Section 19204-B. RESTRICTIONS ON REQUIRING TESTS OR RESULTS OF TESTS 44

Section 19204-C. RESTRICTIONS UPON REVEALING HIV ANTIBODY TEST RESULTS
45

Section 19205. COORDINATION OF SERVICES TO PERSONS WITH HIV OR AIDS 45

Section 19206. CIVIL LIABILITY 46

Section 19207. CIVIL LIABILITY (REPEALED) 46

Section 19208. PROCEEDINGS 46

5 §19201. DEFINITIONS

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings. [1987, c. 539, (RPR).]

1. Antibody to HIV. "Antibody to HIV" means the specific immunoglobulin produced by the body's immune system in response to HIV.

[1987, c. 539, (RPR) .]

1-A. Bona fide occupational exposure. "Bona fide occupational exposure" means skin, eye, mucous membrane or parenteral contact of a person with the potentially infectious blood or other body fluids of another

APPENDIX A: MAINE HIV TESTING LAWS

person that results from the performance of duties by the exposed person in the course of employment. It also includes such contact resulting from performance of emergency services by a volunteer firefighter as defined by Title 30-A, section 3151 or by an emergency medical services person licensed under Title 32, chapter 2-B when responding to an emergency as part of a governmental, nonprofit or other organized entity, whether the firefighter or emergency medical services person is compensated for such services or not.

[1999, c. 429, §1 (AMD) .]

1-B. Employer; employer of the person exposed. "Employer" and "employer of the person exposed" include a self-employed person who is exposed to the potentially infectious blood or other body fluids of another person. It also includes, in the case of a volunteer firefighter or emergency medical services person, the organization for which the services are performed.

[1999, c. 429, §1 (AMD) .]

2. Health care provider. "Health care provider" means any appropriately licensed, certified or registered provider of mental or physical health care, either in the public or private sector or any business establishment providing health care services.

[1987, c. 539, (RPR) .]

2-A. Health care setting. "Health care setting" means any location where there is provision of preventive, diagnostic, therapeutic, rehabilitative, maintenance or palliative care, services, procedures or counseling, including emergency services performed in the field, and appropriate assistance with disease or symptom management and maintenance that affects an individual's physical, mental or behavioral condition, including the process of banking blood, sperm, organs or any other tissue.

[1999, c. 429, §2 (NEW) .]

2-B. Health care facility. "Health care facility" or "facility" means a facility, institution or entity licensed pursuant to Title 22 that offers health care to persons in this State, including a home health care provider and hospice program. "Health care facility" or "facility" includes a pharmacy licensed pursuant to Title 32.

[2011, c. 347, §1 (NEW) .]

3. HIV. "HIV" means the human immunodeficiency virus, identified as the causative agent of Acquired Immune Deficiency Syndrome or AIDS.

[1987, c. 539, (RPR) .]

4. HIV antigen. "HIV antigen" means the specific immune-recognizable marker proteins of HIV.

[1987, c. 539, (RPR) .]

4-A. HIV test. "HIV test" means a test for the presence of an antibody to HIV or a test for an HIV antigen or other diagnostic determinants specific for HIV infection.

[1995, c. 404, §2 (AMD) .]

5. HIV infection; HIV infection status. "HIV infection" means the state wherein HIV has invaded the body and is being actively harbored by the body. "HIV infection status" means the results of an HIV test.

[1995, c. 404, §3 (AMD) .]

5-A. Informed consent. "Informed consent" means consent that is:

A. Based on an actual understanding by the person to be tested:

APPENDIX A: MAINE HIV TESTING LAWS

- (1) That the test is being performed;
- (2) Of the nature of the test;
- (3) Of the persons to whom the results of that test may be disclosed;
- (4) Of the purpose for which the test results may be used; and
- (5) Of any reasonably foreseeable risks and benefits resulting from the test; and [1987, c. 811, §2 (AMD) .]

B. Wholly voluntary and free from express or implied coercion. [1987, c. 539, (RPR) .]

[1987, c. 811, §2 (AMD) .]

6. Person. "Person" means any natural person, firm, corporation, partnership or other organization, association or group, however organized.

[1987, c. 539, (RPR) .]

7. Seropositivity. "Seropositivity" means the presence of antibody to HIV as detected by appropriate laboratory tests.

[1987, c. 539, (RPR) .]

8. Viral positivity. "Viral positivity" means demonstrated presence of HIV.

[1987, c. 539, (RPR) .]

SECTION HISTORY

1987, c. 402, §A76 (NEW). 1987, c. 443, §2 (NEW). 1987, c. 539, (RPR).
1987, c. 811, §§1,2 (AMD). 1995, c. 404, §§1-3 (AMD). 1999, c. 429, §§1,2
(AMD). 2011, c. 347, §1 (AMD).

5 §19202. MAINE HIV ADVISORY COMMITTEE

1. Duties.

[1999, c. 390, §1 (RP); 1999, c. 390, §10 (AFF) .]

1-A. Duties.

[2009, c. 203, §1 (RP); 2009, c. 203, §8 (AFF) .]

1-B. Duties. The Maine HIV Advisory Committee, as established in section 12004-I, subsection 42 and referred to in this section as "the committee," on behalf of those individuals infected by, at risk for or affected by the human immunodeficiency virus, referred to in this section as "HIV," in the State, shall:

A. Advise the Office of the Governor and state, federal and private sector agencies, officials and committees on HIV-related and AIDS-related policy, planning, budget or rules; [2009, c. 203, §2 (NEW); 2009, c. 203, §8 (AFF) .]

B. Make an annual assessment of emerging HIV-related issues and trends; [2009, c. 203, §2 (NEW); 2009, c. 203, §8 (AFF) .]

C. Initiate and respond to legislation, both state and federal; and [2009, c. 203, §2 (NEW); 2009, c. 203, §8 (AFF) .]

D. Prepare and present, in person, an annual report on the status of HIV in the State to the Office of the Governor and the joint standing committee of the Legislature having jurisdiction over health and human

APPENDIX A: MAINE HIV TESTING LAWS

services matters by January 31st of each year. [2009, c. 203, §2 (NEW); 2009, c. 203, §8 (AFF) .]

[2009, c. 203, §2 (NEW); 2009, c. 203, §8 (AFF) .]

2. Membership.

[1999, c. 390, §10 (AFF); 1999, c. 390, §3 (RP) .]

2-A. Membership.

[2009, c. 203, §3 (RP); 2009, c. 203, §8 (AFF) .]

2-B. Membership. The committee consists of 19 members as provided in this subsection.

A. The committee includes 7 members as follows, of whom only the Legislators are voting members:

- (1) Two members of the Legislature, one Senator nominated by the President of the Senate and one Representative nominated by the Speaker of the House of Representatives;
- (2) The director of the HIV, STD and viral hepatitis program within the Department of Health and Human Services, Maine Center for Disease Control and Prevention;
- (3) A representative of the Department of Education, nominated by the Commissioner of Education;
- (4) A representative of the Department of Corrections, nominated by the Commissioner of Corrections;
- (5) A representative of the organizational unit of the Department of Health and Human Services that provides programs and services for substance abuse prevention and treatment, nominated by the Commissioner of Health and Human Services; and
- (6) A representative of the Department of Health and Human Services, Office of MaineCare Services, nominated by the Commissioner of Health and Human Services. [2011, c. 657, Pt. AA, §4 (AMD) .]

B. The committee shall identify 12 additional representatives for membership as described in this paragraph, with broad input from persons with HIV or at risk for HIV infection or from organizations with extensive participation of persons with HIV, organizations interested in and working on HIV and AIDS prevention and health, other community-based organizations providing HIV and AIDS services, rural health centers and the public:

- (1) Three persons who have HIV/AIDS;
- (2) Two health care professionals involved with HIV treatment and care issues;
- (3) Two providers of HIV-related prevention or social services;
- (4) One representative of a state HIV community planning group;
- (5) One representative of the statewide AIDS alliance under section 19251, subsection 4;
- (6) One representative of a statewide coordinating council for public health; and
- (7) Two at-large representatives including but not limited to: homeless persons, high-risk groups, family planning, mental health, higher education, civil rights or disability rights. [2009, c. 203, §4 (NEW); 2009, c. 203, §8 (AFF) .]

[2011, c. 657, Pt. AA, §4 (AMD) .]

3. Terms. The term of office of each voting member is 3 years except that nonvoting members serve during the duration of the commissioner's term of office for the agency that each member represents and Legislators serve during the term for which they were elected. The membership shall annually elect a chair and vice-chair. The chair is the presiding member of the committee. All vacancies must be filled for the balance of the unexpired term in the same manner as original appointments.

APPENDIX A: MAINE HIV TESTING LAWS

[2009, c. 203, §5 (AMD); 2009, c. 203, §8 (AFF) .]

3-A. Compensation. The members of the committee are entitled to compensation in accordance with chapter 379. All members are entitled to reimbursement for expenses.

[1999, c. 390, §10 (AFF); 1999, c. 390, §6 (NEW) .]

4. Meetings. The committee shall meet at least 4 times a year and more frequently if needed to respond to the duties of this committee as specified in subsection 1-B. Special meetings may be called by the chair and must be called at the request of the Department of Health and Human Services, Maine Center for Disease Control and Prevention or by 3 or more members of the committee.

[2009, c. 203, §6 (AMD); 2009, c. 203, §8 (AFF) .]

5. Annual program and budget review.

[1999, c. 390, §10 (AFF); 1999, c. 390, §8 (RP) .]

6. Committee may accept funds. The committee may vote to accept or refuse gifts, grants or other funding that may be offered to the committee.

[1993, c. 384, §2 (NEW) .]

SECTION HISTORY

1987, c. 402, §A76 (NEW). 1987, c. 443, §2 (NEW). 1987, c. 539, (RPR).
1987, c. 651, (AMD). 1987, c. 769, §A33 (AMD). 1987, c. 861, §§7,8 (AMD).
1989, c. 189, (AMD). 1991, c. 404, §1 (AMD). 1991, c. 404, §2 (AFF). 1993,
c. 384, §2 (RPR). 1999, c. 390, §§1-8 (AMD). 1999, c. 390, §10 (AFF).
2001, c. 354, §3 (AMD). RR 2003, c. 2, §10 (COR). 2003, c. 689, §B6 (REV).
2009, c. 203, §§1-6 (AMD). 2009, c. 203, §8 (AFF). 2011, c. 657, Pt. AA, §4
(AMD) .

5 §19203. CONFIDENTIALITY OF TEST

No person may disclose the results of an HIV test, except as follows: [1987, c. 811, §3 (RPR) .]

1. Subject of test. To the subject of the test;

[1987, c. 811, §3 (RPR) .]

2. Designated health care provider. To a health care provider designated by the subject of the test in writing . When a patient has authorized disclosure of HIV test results to a person or organization providing health care, the patient's health care provider may make these results available only to other health care providers working directly with the patient and only for the purpose of providing direct medical or dental patient care. Any health care provider who discloses HIV test results in good faith pursuant to this subsection is immune from any criminal or civil liability for the act of disclosing HIV test results to other health care providers;

[1999, c. 512, Pt. B, §§5, 6 (AFF); 1999, c. 512, Pt. B, §1 (AMD) .]

3. Authorized person. To a person or persons to whom the test subject has authorized disclosure in writing, except that the disclosure may not be used to violate any other provisions of this chapter;

[1987, c. 811, §3 (RPR) .]

4. Certain health care providers. A health care provider who procures, processes, distributes or uses a human body part donated for a purpose may, without obtaining informed consent to the testing, perform an HIV test in

APPENDIX A: MAINE HIV TESTING LAWS

order to assure medical acceptability of the gift for the purpose intended. Testing pursuant to this subsection does not require pretest and post-test counseling;

[1987, c. 811, §3 (RPR) .]

5. Research facility. The Department of Health and Human Services, a laboratory certified and approved by the Department of Health and Human Services pursuant to Title 22, chapter 411, or a health care provider, blood bank, blood center or plasma center may, for the purpose of research and without first obtaining informed consent to the testing, subject any body fluids or tissues to an HIV test if the testing is performed in a manner by which the identity of the test subject is not known and may not be retrieved by the researcher;

[1987, c. 811, §3 (RPR); 2003, c. 689, Pt. B, §6 (REV) .]

6. Anonymous testing sites. To an anonymous testing site established pursuant to section 19203-B;

[1987, c. 811, §3 (RPR) .]

7. Other agencies. To employees of, or other persons designated by, the Department of Corrections and the Department of Health and Human Services, to the extent that those employees or other persons are responsible for the treatment or care of subjects of the test. Those agencies shall adopt rules, within 90 days of August 4, 1988, pursuant to chapter 375, subchapter 2, designating the persons or classes of persons to whom the test results may be disclosed. The rules of the Department of Corrections must designate those persons who may receive the results of an HIV test of a county jail inmate;

[2003, c. 2, §11 (COR) .]

8. Bureau of Health. To the Department of Health and Human Services, which may disclose results to other persons only if that disclosure is necessary to carry out its duties as provided in Title 22, section 42 and chapters 250 and 251;

[2007, c. 539, Pt. N, §6 (AMD) .]

9. Medical records. As part of a medical record when release or disclosure of that record is authorized pursuant to section 19203-D;

[2011, c. 347, §2 (AMD) .]

10. Court ordered disclosure. To:

A. A person authorized by section 19203-C to receive test results following an accidental exposure; or
[1991, c. 803, §1 (NEW) .]

B. A victim-witness advocate authorized by section 19203-F to receive the test results of a person convicted of a sexual crime as defined in section 19203-F, subsection 1, paragraph C, who shall disclose to a victim under section 19203-F, subsection 4; or [2011, c. 347, §3 (AMD) .]

[2011, c. 347, §3 (AMD) .]

11. Access by health information exchange or other entity. To a statewide health information exchange designated by the State that provides and maintains an individual protection mechanism by which an individual may choose to opt in to allow that statewide health information exchange to disclose that individual's health care information covered under this section to a health care provider or health care facility for purposes of treatment, payment and health care operations, as those terms are defined in 45 Code of Federal Regulations, Section 164.501. A state-designated statewide health information exchange also must satisfy the requirement in Title 22, section 1711-C, subsection 18, paragraph C of providing a general opt-out provision to an individual at all times.

A state-designated statewide health information exchange may disclose an individual's health care information covered under this section even if the individual has not chosen to opt in to allow the state-designated statewide

APPENDIX A: MAINE HIV TESTING LAWS

health information exchange to disclose the individual's health care information when in a health care provider's judgment disclosure is necessary to:

A. Avert a serious threat to the health or safety of others, if the conditions, as applicable, described in 45 Code of Federal Regulations, Section 164.512(j)(2010) are met; or [2011, c. 347, §4 (NEW).]

B. Prevent or respond to imminent and serious harm to the individual and disclosure is to a provider for diagnosis or treatment. [2011, c. 347, §4 (NEW).]

[2011, c. 347, §4 (NEW) .]

This section does not prohibit limited administrative disclosure in conjunction with a mandatory testing program of a military organization subject to Title 37-B. [1987, c. 811, §3 (RPR).]

Nothing in this section may be construed as prohibiting the entry of an HIV test result on the patient's medical record in accordance with this chapter. [1999, c. 512, Pt. B, §§5, 6 (AFF); 1999, c. 512, Pt. B, §3 (AMD).]

SECTION HISTORY

1987, c. 402, §A76 (NEW). 1987, c. 443, §2 (NEW). 1987, c. 539, (RPR). 1987, c. 811, §3 (RPR). 1989, c. 487, §1 (AMD). 1995, c. 319, §1 (AMD). 1995, c. 404, §4 (AMD). 1995, c. 560, §K82 (AMD). 1995, c. 560, §K83 (AFF). 1997, c. 70, §1 (AMD). 1997, c. 793, §§B1-3 (AMD). 1997, c. 793, §B6 (AFF). 1999, c. 3, §§4,5 (AFF). 1999, c. 127, §A13 (AMD). 1999, c. 512, §§B1-3 (AMD). 1999, c. 512, §B5 (AFF). 1999, c. 790, §§A59,60 (AFF). 2001, c. 354, §3 (AMD). RR 2003, c. 2, §11 (COR). 2003, c. 689, §B6 (REV). 2007, c. 539, Pt. N, §6 (AMD). 2011, c. 347, §§2-4 (AMD).

5 §19203-A. VOLUNTARY INFORMED CONSENT REQUIRED

1. Individual tested. Except as provided in this section and section 19203, subsections 4 and 5, an HIV test must be voluntary and undertaken only with a patient's knowledge and understanding that an HIV test is planned. A patient must be informed orally or in writing that an HIV test will be performed unless the patient declines. Oral or written information required to be given to a patient under this subsection must include an explanation of what an HIV infection involves and the meaning of positive and negative test results. A patient must be provided the opportunity to ask questions, either orally or in writing. Informed consent is not required for repeated HIV testing by health care providers to monitor the course of established infection.

[2007, c. 93, §1 (AMD) .]

2. Insurers. Persons required to take an HIV test by an insurer, nonprofit hospital or medical service organization or nonprofit health care plan must provide their written informed consent on forms approved by the Superintendent of Insurance. If the test is positive, post-test counseling must be provided by the person or organization requesting the test. The Superintendent of Insurance may adopt rules to define language requirements of the form.

[2007, c. 93, §1 (AMD) .]

3. Access to medical care. A health care provider may not deny any person medical treatment or care solely for refusal to give consent for an HIV test. A health care provider may not request a person's written consent to an HIV test as a precondition to the provision of health care. All written consent to testing must be in accordance with section 19201, subsection 5-A. This section does not prohibit a health care provider from recommending an HIV test for diagnostic or treatment purposes. A physician or other health care provider is not civilly liable for failing to have an HIV test performed for diagnostic or treatment purposes if the test was recommended and refused in writing by the patient.

[2007, c. 93, §1 (AMD) .]

APPENDIX A: MAINE HIV TESTING LAWS

4. Occupational exposure. Consent need not be obtained when a bona fide occupational exposure creates a significant risk of infection if a court order has been obtained under section 19203-C. The fact that an HIV test was given as a result of an occupational exposure and the results of that test may not appear in any records of the person whose blood or body fluid is the source of the exposure. If the test is positive, post-test counseling must be offered. The subject of the test may choose not to be informed about the result of the test.

[2007, c. 93, §1 (AMD) .]

4-A. Occupational exposure in health care setting. When a bona fide occupational exposure occurs in a health care setting, authorization to test the source patient for HIV must be obtained from that patient if the patient is present or can be contacted at the time of exposure and is capable of providing consent. At the time of exposure, if the source patient is not present and can not be contacted or is incapacitated, then any reasonably available member of the following classes of individuals, in descending order of priority, may authorize an HIV test on a blood or tissue sample from the source patient:

- A. The patient's legal guardian; [1999, c. 429, §3 (NEW) .]
- B. An individual known to have power of attorney for health care for the patient; [1999, c. 429, §3 (NEW) .]
- C. An adult relative, by blood, marriage or adoption; [1999, c. 429, §3 (NEW) .]
- D. An adult with whom the patient has a meaningful social and emotional relationship; and [1999, c. 429, §3 (NEW) .]
- E. A physician who is familiar with occupational exposures to HIV. [1999, c. 429, §3 (NEW) .]

The individual authorizing the HIV test must be informed of the nature, reliability and significance of the HIV test and the confidential nature of the test.

If the person contacted for authorization refuses to authorize the test, the test may not be conducted unless consent is obtained from the source patient or from the court pursuant to section 19203-C.

This subsection does not authorize a person described in paragraphs A to D to receive the test result. Test results must be given to the exposed person, to a personal physician if designated by the exposed person and to either the physician who authorizes the test or the health care provider who manages the occupational exposure.

The patient may choose not to be informed about the result of the HIV test. Without express patient authorization, the results of the HIV test and the fact that an HIV test was done as a result of an occupational exposure in a health care setting may not appear in the patient's health care records. The exposed individual's occupational health care record may include documentation of the occupational exposure and, if the record does not reveal the source patient's identity, the results of the source patient's HIV test.

[1999, c. 429, §3 (NEW) .]

5. Exposure from sexual crime. Consent need not be obtained when a court order has been issued under section 19203-F. The fact that an HIV test was given as a result of the exposure and the results of that test may not appear in a convicted offender's medical record. Counseling on risk reduction must be offered, but the convicted offender may choose not to be informed about the result of the test unless the court has ordered that the convicted offender be informed of the result.

[1995, c. 319, §2 (AMD) .]

6. Protection of newborn infants. Subject to the consent and procedure requirements of subsection 1, a health care provider who is providing care for a pregnant woman shall include an HIV test in a standard set of medical tests performed on the woman. A health care provider who is providing care for a newborn infant shall test the infant for HIV and ensure that the results are available within 12 hours of birth of the infant if the health care provider does not know the HIV status of the mother or the health care provider believes that HIV testing is medically necessary unless a parent objects to the test on the grounds that it conflicts with the sincere religious or conscientious beliefs and practices of the parent. If a woman declines to be tested for HIV pursuant to this subsection and subsection 1, the health care provider shall document the woman's decision in the woman's medical record.

APPENDIX A: MAINE HIV TESTING LAWS

[2011, c. 229, §1 (NEW) .]

SECTION HISTORY

1987, c. 443, §2 (NEW). 1987, c. 539, (RPR). 1987, c. 811, §§4,5 (AMD).
1991, c. 803, §2 (AMD). 1995, c. 319, §2 (AMD). 1995, c. 404, §§5,6 (AMD).
1999, c. 429, §3 (AMD). 2007, c. 93, §1 (AMD). 2011, c. 229, §1 (AMD).

5 §19203-B. ANONYMOUS TESTING SITES

The Department of Health and Human Services may designate or establish certification and approval standards for and support anonymous testing sites where an individual may request an HIV test under conditions which ensure anonymity. [1987, c. 539, (NEW); 2003, c. 689, Pt. B, §6 (REV).]

SECTION HISTORY

1987, c. 539, (NEW). 2003, c. 689, §B6 (REV).

5 §19203-C. JUDICIAL CONSENT TO HIV TEST

1. Petition. Any person who experiences a bona fide occupational exposure may petition the District Court with jurisdiction over the facility or other place where the exposure occurred to require the person whose blood or body fluid is the source of the exposure to submit to an HIV test and to require that the results of the test be provided to the petitioner provided that the following conditions have been met:

A. The exposure to blood or body fluids creates a significant risk of HIV infection, as defined by the Bureau of Health through the adoption of rules in accordance with the Maine Administrative Procedure Act, chapter 375; [1995, c. 404, §7 (AMD).]

B. The authorized representative of the employer of the person exposed has informed the person whose blood or body fluid is the source of the occupational exposure and has sought to obtain written informed consent from the person whose blood or body fluid is the source of the exposure; and [1995, c. 404, §7 (AMD).]

C. Written informed consent was not given by the person whose blood or body fluid is the source of the exposure and that person has refused to be tested, or, in the event of an occupational exposure in a health care setting when the source patient was not present and could not be contacted or was incapacitated, the individual contacted for authorization to test the source patient's blood or tissue sample denied the authorization. [1999, c. 429, §4 (AMD).]

[1999, c. 429, §4 (AMD) .]

1-A. Persons authorized.

[1995, c. 404, §8 (RP) .]

2. Prehearing duties of the court. Upon receipt by the District Court of the petition, the court shall:

A. Schedule a hearing to be held as soon as practicable; [1987, c. 811, §6 (NEW).]

B. Cause a written notice of the petition and hearing to be given, in accordance with the Maine Rules of Civil Procedure, to the patient who is the subject of the proceeding; [1987, c. 811, §6 (NEW).]

C. Appoint counsel, if requested, for any indigent client not already represented; and [1987, c. 811, §6 (NEW).]

D. Furnish counsel with copies of the petition. [1987, c. 811, §6 (NEW).]

[1987, c. 811, §6 (NEW) .]

APPENDIX A: MAINE HIV TESTING LAWS

3. Hearing. The hearing shall be governed as follows.

A. The hearing shall be conducted in accordance with the Maine Rules of Evidence and in an informal manner consistent with orderly procedure. [1987, c. 811, §6 (NEW).]

B. The hearing shall be confidential and be electronically or stenographically recorded. [1987, c. 811, §6 (NEW).]

C. The report of the hearing proceedings must be sealed. No report of the hearing proceedings may be released to the public, except by permission of the person whose blood or body fluid is the source of the exposure or that person's counsel and with the approval of the court. [1995, c. 404, §9 (AMD).]

D. The court may order a public hearing at the request of the person whose blood or body fluid is the source of the exposure or that person's counsel. [1995, c. 404, §9 (AMD).]

[1995, c. 404, §9 (AMD) .]

4. Determination. The court shall require the person whose blood or body fluid is the source of the exposure to obtain an HIV test if the petitioner proves, by a preponderance of the evidence, that:

A. The exposure to blood or body fluids of the person created a significant risk of HIV infection as defined by the Bureau of Health through the adoption of rules in accordance with the Maine Administrative Procedure Act, chapter 375; [1995, c. 404, §10 (AMD).]

B. An authorized representative of the employer of the person exposed has informed the patient of the occupational exposure and has sought to obtain written informed consent from the person whose blood or body fluid is the source of the exposure; and [1995, c. 404, §10 (AMD).]

C. Written informed consent was not given by the person whose blood or body fluid is the source of the exposure and that person has refused to be tested. [1995, c. 404, §10 (AMD).]

[1997, c. 331, §2 (AMD) .]

5. Consent. The court may not order a person whose blood or body fluid is the source of the exposure to obtain an HIV test unless the employee exposed to the blood or body fluids of that person has consented to and obtained an HIV test immediately following that documented exposure.

[1995, c. 404, §10 (AMD) .]

6. Costs. The employer of the person exposed is responsible for the petitioner's reasonable costs related to obtaining the results of an HIV test pursuant to this section, including the payment of the petitioner's attorneys' fees.

[1995, c. 404, §10 (AMD) .]

7. Appeals. A person required to undergo an HIV test may appeal the order to Superior Court. The appeal is limited to questions of law. Any findings of fact of the District Court may not be set aside unless clearly erroneous.

[1995, c. 404, §10 (AMD) .]

8. Reporting to bureau and counseling.

[1995, c. 404, §11 (RP) .]

9. Subsequent testing. Subsequent testing arising out of the same incident of occupational exposure must be conducted in accordance with this section.

[1995, c. 404, §12 (AMD) .]

10. Bureau of Health report. The Bureau of Health shall report on an annual basis to the Maine HIV Advisory Committee the following information:

APPENDIX A: MAINE HIV TESTING LAWS

A. The number of incidents in which the Bureau of Health is requested to determine under subsection 1, paragraph A whether a bona fide occupational exposure has occurred; and [1995, c. 404, §13 (NEW).]

B. With regard to the incidents reported in paragraph A, the occupations represented, the nature or a description of the incidents and the number of incidents determined to be and not to be bona fide occupational exposures. [1995, c. 404, §13 (NEW).]

[1995, c. 404, §13 (NEW) .]

SECTION HISTORY

1987, c. 811, §6 (NEW). 1989, c. 219, §§1,2 (AMD). 1995, c. 404, §§7-13 (AMD). 1997, c. 331, §§1,2 (AMD). 1999, c. 429, §4 (AMD).

5 §19203-D. RECORDS

When a medical record entry is made concerning information of a person's HIV infection status, including the results of an HIV test, the following apply to the release of that information as a part of the medical record. [1999, c. 512, Pt. B, §§5, 6 (AFF); 1999, c. 512, Pt. B, §4 (REEN).]

1. Authorized release. The person who is the subject of an HIV test, at or near the time the entry is made in the medical record, shall elect, in writing, whether to authorize the release of that portion of the medical record containing the HIV infection status information when that person's medical record has been requested. A new election may be made when a change in the person's HIV infection status occurs or whenever the person makes a new election. The release form must clearly state whether or not the person has authorized the release of that information. The person must be advised of the potential implications of authorizing the release of that information.

A. When release has been authorized, the custodian of the medical record may release, upon request, the person's medical record, including any HIV infection status information contained in the medical record. Release of HIV infection status information pursuant to this paragraph is not a violation of any of the confidentiality provisions of this chapter. [1999, c. 512, Pt. B, §§5, 6 (AFF); 1999, c. 512, Pt. B, §4 (REEN).]

B. When release has not been authorized, the custodian of the medical record may, upon request, release that portion of the medical record that does not contain the HIV infection status information. Except as otherwise provided in this section, HIV infection status information may be released only if the person has specifically authorized a separate release of that information. A general release form is insufficient. [1999, c. 512, Pt. B, §§5, 6 (AFF); 1999, c. 512, Pt. B, §4 (REEN).]

[1999, c. 512, Pt. B, §§5, 6 (AFF); 1999, c. 512, Pt. B, §4 (REEN) .]

2. Authorized disclosure. A medical record containing results of an HIV test may not be disclosed, discoverable or compelled to be produced in any civil, criminal, administrative or other proceedings without the consent of the person who is the subject of an HIV test, except in the following cases:

A. Proceedings held pursuant to the communicable disease laws, Title 22, chapter 251; [1999, c. 512, Pt. B, §§5, 6 (AFF); 1999, c. 512, Pt. B, §4 (REEN).]

B. Proceedings held pursuant to the Adult Protective Services Act, Title 22, chapter 958-A; [1999, c. 512, Pt. B, §§5, 6 (AFF); 1999, c. 512, Pt. B, §4 (REEN).]

C. Proceedings held pursuant to the child protection laws, Title 22, chapter 1071; [1999, c. 512, Pt. B, §§5, 6 (AFF); 1999, c. 512, Pt. B, §4 (REEN).]

D. Proceedings held pursuant to the mental health laws, Title 34-B, chapter 3, subchapter IV, article III; and [1999, c. 512, Pt. B, §§5, 6 (AFF); 1999, c. 512, Pt. B, §4 (REEN).]

E. Pursuant to a court order upon a showing of good cause, provided that the court order limits the use and disclosure of records and provides sanctions for misuse of records or sets forth other methods for ensuring

APPENDIX A: MAINE HIV TESTING LAWS

confidentiality. [1999, c. 512, Pt. B, §§5, 6 (AFF); 1999, c. 512, Pt. B, §4 (REEN) .]

[1999, c. 512, Pt. B, §§5, 6 (AFF); 1999, c. 512, Pt. B, §4 (REEN) .]

3. Utilization review; research. Nothing in this section may be interpreted to prohibit reviews of medical records for utilization review purposes by duly authorized utilization review committees or peer review organizations. Qualified personnel conducting scientific research, management audits, financial audits or program evaluation with the use of medical records may not identify, directly or indirectly, any individual patient in any report of such research, audit, evaluation or otherwise disclose the identities of persons tested in any manner.

[1999, c. 512, Pt. B, §§5, 6 (AFF); 1999, c. 512, Pt. B, §4 (REEN) .]

4. Access by health care providers. Nothing in this section may prohibit access to medical records by the designated health care provider of the person who is the subject of an HIV test in accordance with section 19203, subsection 2.

[1999, c. 512, Pt. B, §§5, 6 (AFF); 1999, c. 512, Pt. B, §4 (REEN) .]

5. Confidentiality policy. Health care providers and others with access to medical records containing HIV infection status information shall have a written policy providing for confidentiality of all patient information consistent with this chapter. That policy must require, at a minimum, action consistent with disciplinary procedures for violations of the confidentiality policy.

[1999, c. 512, Pt. B, §§5, 6 (AFF); 1999, c. 512, Pt. B, §4 (REEN) .]

6. Access by health information exchange or other entity. Nothing in this section precludes the disclosure of a medical record containing HIV information to a state-designated statewide health information exchange that provides and maintains an individual protection mechanism by which an individual may choose to opt in to allow the state-designated statewide health information exchange to disclose that individual's health care information covered under this section to a health care provider or health care facility consistent with the rules and regulations contained in the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, for purposes of treatment, payment and health care operations, as those terms are defined in 45 Code of Federal Regulations, Section 164.501. A state-designated statewide health information exchange also must satisfy the requirement in Title 22, section 1711-C, subsection 18, paragraph C of providing a general opt-out provision to an individual at all times.

A state-designated statewide health information exchange may disclose an individual's health care information covered under this section even if the individual has not chosen to opt in to allow the state-designated statewide health information exchange to disclose the individual's health care information when in a health care provider's judgment disclosure is necessary to:

A. Avert a serious threat to the health or safety of others, if the conditions, as applicable, described in 45 Code of Federal Regulations, Section 164.512(j)(2010) are met; or [2011, c. 347, §5 (NEW) .]

B. Prevent or respond to imminent and serious harm to the individual and disclosure is to a provider for diagnosis or treatment. [2011, c. 347, §5 (NEW) .]

[2011, c. 347, §5 (NEW) .]

SECTION HISTORY

1987, c. 811, §6 (NEW). 1995, c. 404, §14 (AMD). 1997, c. 793, §B4 (RP). 1997, c. 793, §B6 (AFF). 1999, c. 3, §§4,5 (AFF). 1999, c. 512, §B4 (REEN). 1999, c. 512, §B5 (AFF). 1999, c. 790, §§A59,60 (AFF). 2011, c. 347, §5 (AMD) .

APPENDIX A: MAINE HIV TESTING LAWS

5 §19203-E. HIV TEST AFTER CONVICTION FOR SEXUAL ASSAULT

(REPEALED)

SECTION HISTORY

1991, c. 803, §3 (NEW). 1993, c. 391, §§1,2 (AMD). 1995, c. 319, §3 (RP).

5 §19203-F. HIV TEST AFTER CONVICTION FOR SEXUAL ASSAULT

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Convicted offender" means a person who has been convicted of a sexual crime or, in the case of a juvenile, a person who has been adjudicated as having committed a sexual crime. [1995, c. 319, §4 (NEW).]

B. "Incapacitated adult" means an adult who is impaired by reason of mental illness, mental deficiency, physical illness or disability to the extent that the individual lacks sufficient understanding or capacity to make or communicate responsible decisions concerning that individual. [1995, c. 319, §4 (NEW).]

C. "Sexual crime" means a crime involving a sexual act, as defined in Title 17-A, section 251, subsection 1, paragraph C, subparagraph (1). [1995, c. 319, §4 (NEW).]

[1995, c. 319, §4 (NEW) .]

2. Request for testing. A person who is the victim of a sexual crime, or that person's parent, guardian or authorized representative if that person is a minor or incapacitated adult, may petition the court at any time prior to sentencing or no later than 180 days after conviction to order the convicted offender to submit to HIV testing and to order that the convicted offender be informed of the test results.

[1995, c. 319, §4 (NEW) .]

3. Duties of the court. Upon receipt of the petition, the court shall order that the convicted offender obtain HIV testing conducted by or under authority of the Department of Health and Human Services and, if requested by the petitioner, that the convicted offender be informed of the test results.

[1995, c. 319, §4 (NEW); 2003, c. 689, Pt. B, §6 (REV) .]

4. Reporting and counseling. The health care facility in which a convicted offender is tested pursuant to this section shall disclose the results of the test to the victim-witness advocate, who shall disclose the result to the petitioner. The health care facility shall, upon order of the court, disclose the results of the test to the convicted offender.

[2007, c. 93, §2 (AMD) .]

SECTION HISTORY

1995, c. 319, §4 (NEW). 2003, c. 689, §B6 (REV). 2007, c. 93, §2 (AMD).

5 §19204. RESTRICTIONS UPON REVEALING HIV TEST RESULTS

(REPEALED)

SECTION HISTORY

1987, c. 402, §A76 (NEW). 1987, c. 443, §2 (NEW). 1987, c. 539, (RPR). 1987, c. 811, §7 (AMD).

APPENDIX A: MAINE HIV TESTING LAWS

5 §19204-A. COUNSELING NEW HIV CASES

Except as otherwise provided by this chapter, persons who test positive for HIV infection must be offered post-test counseling. Persons who are authorized by section 19203-C or 19203-F to receive test results after exposure must be offered counseling regarding the nature, reliability and significance of the HIV test and the confidential nature of the test. Persons offered counseling under this section may decline the offer by signing a waiver stating that counseling has been offered and is being declined. [2007, c. 93, §3 (AMD).]

1. Pretest counseling.

[2007, c. 93, §3 (RP) .]

2. Post-test counseling. "Post-test counseling" must include:

A. Personal counseling that includes, at a minimum, a discussion of:

- (1) The test results and the reliability and significance of the test results. The person providing post-test counseling shall communicate the result confidentially and through personal contact;
- (3) Information on good preventive practices and risk reduction plans; and
- (4) Referrals for medical care and information and referrals for support services, including social, emotional support and legal services, as needed; [2007, c. 93, §3 (AMD).]

B. An entry in the medical record of the person being counseled summarizing the contents of the discussion; and [2001, c. 647, §2 (AMD).]

C. The offer of face-to-face counseling. If the subject of the test declines, the provider of the test may provide an alternative means of providing the information required by paragraph A. [1995, c. 404, §15 (NEW) .]

[2007, c. 93, §3 (AMD) .]

5. Written information to person being counseled. To comply with the requirements of this section regarding post-test counseling, in addition to meeting the requirements of subsection 2, the provider of an HIV test shall give to the person being counseled a written document containing information on the subjects described in subsection 2, paragraph A.

[2007, c. 93, §3 (AMD) .]

SECTION HISTORY

1987, c. 443, §2 (NEW). 1987, c. 539, (RPR). 1987, c. 811, §8 (RPR). 1991, c. 803, §4 (AMD). 1995, c. 319, §5 (AMD). 1995, c. 404, §15 (AMD). 1995, c. 625, §A15 (AMD). 2001, c. 647, §§1-3 (AMD). 2007, c. 93, §3 (AMD).

5 §19204-B. RESTRICTIONS ON REQUIRING TESTS OR RESULTS OF TESTS

1. Employee testing. An employee or applicant for employment may not be required to submit to an HIV test or reveal whether the employee or applicant for employment has obtained an HIV test as a condition of employment or to maintain employment, except when based on a bona fide occupational qualification. The Maine Human Rights Commission shall enforce this subsection.

[1995, c. 404, §16 (AMD) .]

2. Employee rights. The employment status of any employee may not be affected or changed:

A. If the employee declines to be tested; [2007, c. 93, §4 (AMD) .]

APPENDIX A: MAINE HIV TESTING LAWS

B. If the employee testifies or assists in any proceeding under this chapter; [1987, c. 811, §9 (NEW) .]

C. If the employee asserts any other rights exercised in good faith pursuant to this chapter; or [1987, c. 811, §9 (NEW) .]

D. Because of the result of any test taken pursuant to this chapter. [1987, c. 811, §9 (NEW) .]

[2007, c. 93, §4 (AMD) .]

SECTION HISTORY

1987, c. 811, §9 (NEW). 1989, c. 161, (AMD). 1995, c. 404, §16 (AMD).
2007, c. 93, §4 (AMD) .

5 §19204-C. RESTRICTIONS UPON REVEALING HIV ANTIBODY TEST RESULTS

An insurer, nonprofit hospital or medical services organization, nonprofit health care plan or health maintenance organization may not request any person to reveal whether the person has obtained a test for the presence of antibodies to HIV or a test to measure the virus or to reveal the results of such tests taken prior to an application for insurance coverage. [1995, c. 404, §17 (AMD) .]

SECTION HISTORY

1991, c. 3, §1 (NEW). 1995, c. 404, §17 (AMD) .

5 §19205. COORDINATION OF SERVICES TO PERSONS WITH HIV OR AIDS

1. Policy; services. It is the policy of the State to provide to persons who test positive for HIV or have been diagnosed as having AIDS the services of departments and agencies, including, but not limited to, the Department of Education, the Department of Health and Human Services and the Department of Corrections.

[2003, c. 2, §12 (COR) .]

2. Coordination of services. A person designated by the Commissioner of Health and Human Services shall ensure coordination of new and existing services so as to meet the needs of persons with HIV or AIDS and identify gaps in programs.

The committee established in section 12004-I, subsection 42, shall work with the person designated in this chapter to ensure the coordination of services to meet the needs of persons with HIV or AIDS.

[1995, c. 404, §19 (AMD); 2003, c. 689, Pt. B, §7 (REV) .]

3. Development of a client support services system. A client support services system shall be developed to assist individuals infected with the Human Immune Deficiency Virus and to ensure that they receive necessary services. The client support service, arranged by the staff of community-based agencies, shall include, but not be limited to, assisting the individual's needs and assisting the individual with obtaining access to necessary health care, social service, housing, transportation, counseling and income maintenance services. The Department of Health and Human Services shall be responsible for providing overall direction for the development of the client support services system.

[1987, c. 769, Pt. A, §34 (NEW); 2003, c. 689, Pt. B, §6 (REV) .]

SECTION HISTORY

1987, c. 402, §A76 (NEW). 1987, c. 443, §2 (NEW). 1987, c. 539, (RPR).
1987, c. 769, §A34 (AMD). 1989, c. 502, §A22 (AMD). 1989, c. 700, §A28
(AMD). RR 1995, c. 1, §5 (COR). 1995, c. 404, §§18,19 (AMD). 1995, c. 560,

APPENDIX A: MAINE HIV TESTING LAWS

§K82 (AMD). 1995, c. 560, §K83 (AFF). 2001, c. 354, §3 (AMD). RR 2003, c. 2, §12 (COR). 2003, c. 689, §§B6,7 (REV).

5 §19206. CIVIL LIABILITY

Any person violating this chapter is liable to the subject of the test for actual damages and costs plus a civil penalty of up to \$1,000 for a negligent violation and up to \$5,000 for an intentional violation, subject to Title 14, chapter 741. [1987, c. 811, §10 (AMD).]

Any person may bring an action for injunctive relief for a violation of sections 19203 and 19204 in addition to or instead of the penalties provided in this section. The applicant for injunctive relief under this section shall not be required to give security as a condition upon the issuance of the injunction. [1987, c. 539, (RPR).]

SECTION HISTORY

1987, c. 402, §A76 (NEW). 1987, c. 443, §2 (NEW). 1987, c. 539, (RPR). 1987, c. 811, §10 (AMD).

5 §19207. CIVIL LIABILITY

(REPEALED)

SECTION HISTORY

1987, c. 443, §2 (NEW). 1987, c. 539, (RP).

5 §19208. PROCEEDINGS

All proceedings brought pursuant to this chapter shall be closed to the public, unless the court orders otherwise with the consent of all parties. [1987, c. 811, §11 (NEW).]

SECTION HISTORY

1987, c. 811, §11 (NEW).

All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the Second Regular Session of the 125th Maine Legislature, is current through September 1, 2012, and is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.
--

APPENDIX B: Consent of Minors to Test Law

Maine Revised Statute Title 22, Chapter 260: CONSENT OF MINORS FOR HEALTH SERVICES

Table of Contents

Subtitle 2. HEALTH Error!
Bookmark not defined.

Part 3. PUBLIC HEALTH **Error!**
Bookmark not defined.

Section 1501. DEFINITIONS 47
Section 1502. CONSENT 47
Section 1502-A. CONSENT TO GIVE BLOOD 48
Section 1503. AUTHORITY 48
Section 1504. GOOD FAITH RELIANCE ON CONSENT 48
Section 1505. CONFIDENTIALITY; NOTIFICATION 49
Section 1506. FINANCIAL RESPONSIBILITY 49
Section 1507. CONSENT FOR SEXUAL ASSAULT FORENSIC EXAMINATION ... 49

22 §1501. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1995, c. 694, Pt. C, §8 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

1. Health care practitioner. "Health care practitioner" has the same meaning as set forth in Title 24, section 2502, subsection 1-A.

[1995, c. 694, Pt. C, §8 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

2. Health care provider. "Health care provider" has the same meaning as set forth in Title 24, section 2502, subsection 2.

[1995, c. 694, Pt. C, §8 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

3. Minor. "Minor" means a person under 18 years of age.

[1995, c. 694, Pt. C, §8 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

SECTION HISTORY

1995, c. 694, §C8 (NEW). 1995, c. 694, §E2 (AFF).

22 §1502. CONSENT

APPENDIX B: CONSENT OF MINORS LAWS

In addition to the ability to consent to treatment for health services as provided in sections 1823 and 1908 and Title 32, sections 2595, 3292, 3817, 6221 and 7004, a minor may consent to treatment for abuse of alcohol or drugs or for emotional or psychological problems. [1995, c. 694, Pt. C, §8 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY

1995, c. 694, §C8 (NEW). 1995, c. 694, §E2 (AFF).

22 §1502-A. CONSENT TO GIVE BLOOD

A minor may consent to give blood if the minor is at least 17 years of age, notwithstanding any other provision of law. [1999, c. 10, §1 (NEW).]

SECTION HISTORY

1999, c. 10, §1 (NEW).

22 §1503. AUTHORITY

A minor may give consent to all medical, mental, dental and other health counseling and services if the minor: [1995, c. 694, Pt. C, §8 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

1. Living separately; independent of parental support. Has been living separately from parents or legal guardians for at least 60 days and is independent of parental support;

[1995, c. 694, Pt. C, §8 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

2. Married. Is or was legally married;

[1995, c. 694, Pt. C, §8 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

3. Armed Forces. Is or was a member of the Armed Forces of the United States; or

[1995, c. 694, Pt. C, §8 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

4. Emancipated. Has been emancipated by the court pursuant to Title 15, section 3506-A.

[1995, c. 694, Pt. C, §8 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

SECTION HISTORY

1995, c. 694, §C8 (NEW). 1995, c. 694, §E2 (AFF).

22 §1504. GOOD FAITH RELIANCE ON CONSENT

A health care practitioner or health care provider who takes reasonable steps to ascertain that a minor is authorized to consent to health treatment as authorized in section 1503 and who subsequently renders treatment in reliance on that consent is not liable for failing to have secured consent of the minor's parent or guardian prior to providing health care services to the minor. [1995, c. 694, Pt. C, §8 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY

1995, c. 694, §C8 (NEW). 1995, c. 694, §E2 (AFF).

22 §1505. CONFIDENTIALITY; NOTIFICATION

1. Confidentiality. Except as otherwise provided by law, a minor who may consent to health care services, as provided in this chapter or by other provision of law, is entitled to the same confidentiality afforded to adults.

[1995, c. 694, Pt. C, §8 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

2. Parental notification. A health care practitioner or health care provider may notify the parent or guardian of a minor who has sought health care under this chapter if, in the judgment of the practitioner or provider, failure to inform the parent or guardian would seriously jeopardize the health of the minor or would seriously limit the practitioner's or provider's ability to provide treatment.

[1995, c. 694, Pt. C, §8 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

SECTION HISTORY

1995, c. 694, §C8 (NEW). 1995, c. 694, §E2 (AFF).

22 §1506. FINANCIAL RESPONSIBILITY

Unless the parent or guardian expressly agrees to assume full or partial responsibility, a minor who consents to health care services as provided in this chapter is responsible for the costs of those services. A minor may not be denied benefits or services to which the minor is entitled from a health care practitioner, health care provider, insurer or public agency because the minor has given the consent for those services as provided in this chapter. [1995, c. 694, Pt. C, §8 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

SECTION HISTORY

1995, c. 694, §C8 (NEW). 1995, c. 694, §E2 (AFF).

22 §1507. CONSENT FOR SEXUAL ASSAULT FORENSIC EXAMINATION

Notwithstanding the limitations set forth in section 1503, a minor may consent to health services associated with a sexual assault forensic examination to collect evidence after an alleged sexual assault. [1999, c. 90, §1 (NEW) .]

SECTION HISTORY

1999, c. 90, §1 (NEW) .

All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the Second Regular Session of the 125th Maine Legislature, is current through September 1, 2012, and is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.

More information can be found at:

<http://www.mainelegislature.org/legis/Statutes/22/title22ch260sec0.html>

APPENDIX C: Disease Reporting Laws and Rules

Maine Revised Statute Title 22, Chapter 250: CONTROL OF NOTIFIABLE DISEASES AND CONDITIONS

22 §822. REPORTING

22 §822. REPORTING

Whenever any physician knows or has reason to believe that any person whom the physician examines or cares for has a disease or condition designated as notifiable, that physician shall notify the department and make such a report as may be required by the rules of the department. Reports must be in the form and content prescribed by the department and the department shall provide forms for making required reports. [2009, c. 299, Pt. A, §3 (AMD).]

SECTION HISTORY

1989, c. 487, §11 (NEW). 2005, c. 383, §18 (AMD). 2009, c. 299, Pt. A, §3 (AMD).

All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the Second Regular Session of the 125th Maine Legislature, is current through September 1, 2012, and is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.

More information can be found at:

<http://www.mainelegislature.org/legis/Statutes/22/title22ch250sec0.html>

The rules governing Disease Reporting may be found here:

<http://www.maine.gov/sos/cec/rules/10/144/144c258.doc>

Diseases must be reported by health care providers, medical laboratories, or health care facilities within 48 hours

The Rule Chapters for the Department of Health and Human Services are listed at:

<http://www.maine.gov/sos/cec/rules/10/chaps10.htm>

APPENDIX D: Consent Form Templates

CONSENT FORM FOR HIV ANTIBODY TESTING

What is HIV?

HIV stands for *human immunodeficiency virus*. HIV is a virus that infects people's bodies and attacks the cells that help fight infection and disease. HIV causes AIDS, a life-threatening illness. HIV lives in blood, semen, vaginal fluid, and breast milk. HIV can be passed from person to person through unprotected sex, sharing needles/works, or from an HIV infected mother to her baby during pregnancy, delivery, and breastfeeding.

What is the HIV test?

The HIV test looks for HIV antibodies in your body. Antibodies are made by a person's body when it's infected by a virus. If the test finds antibodies, it means you have HIV. There are many different tests for HIV available. Talk with your HIV test provider about testing options and which is best for you.

The HIV test is voluntary.

This means you have decided to take the test on your own. You have the right to ask any questions about HIV and the HIV test before you choose whether or not to test.

Can I trust the HIV test?

The test is a very good test and is right almost 100% of the time. You can feel confident the test will tell you if you are HIV negative or positive. Like most tests, the HIV test is not perfect and you are not 100% guaranteed that the test is right.

The timing of your test is very important. Most people will develop antibodies within 25 days after exposure, but sometimes it takes as long as 3 months or more. During the time it takes for HIV antibodies to develop, you can test negative for HIV, even though the virus is in your body and you can give it to others.

What happens to my HIV test result?

- Your HIV test result may become part of your medical record.
- HIV positive test results are reported to the Maine Center for Disease Control where they track HIV disease in Maine.

What do the test results mean?

Negative HIV test

- A negative HIV test result means that HIV antibodies were not found in your body at the time the test was done. You can only trust a negative result when you're sure that you have had no possible HIV exposure in the 3 months before your test.
- If you test HIV negative, your HIV test provider will talk with you about how to stay negative.

Positive HIV test

- A positive HIV test result means that HIV antibodies were found in your body and you are infected with HIV. You may feel and look healthy when you're infected with HIV.
- If you test HIV positive:
 - Someone will talk to you about getting medical care and other kinds of help you need right away;
 - Someone will talk to you about who you've had sex with, been married to, and/or shared needles with. It's important to tell people that they may have come in contact with HIV;
 - You can learn how to prevent giving HIV to others;
 - If you are pregnant, there is medicine to help you prevent passing HIV to your baby.

Any other questions about the HIV test?

If you have other questions about HIV or the HIV test, please ask your HIV test counselor or call the Maine HIV Prevention Program at 207-287-3747.

APPENDIX D: CONSENT FORMS

CONSENT FORM FOR ANONYMOUS HIV ANTIBODY TEST

CONSENT TO BE TESTED:

Information about the HIV test was given to me.
All my questions have been answered.
I understand the benefits and limitations of this test.
I agree to be tested.

YES NO

Testing ID Number

Witness Signature

Date

WAIVER OF ANONYMITY

“I choose to sign my name on this consent form to document my positive HIV test and become eligible for early HIV case management/treatment services.”

Client Signature

Date

Witness Signature

Date

Client Street Address

Phone

Date of Birth

Instructions:

1. Please ensure that clients read and understand the information provided on this consent form. If clients are unable to read or understand this information, the counselor should read it to them.
2. After anonymous clients receive information about the HIV antibody test, they must indicate their consent by marking yes or no, dating the form and placing or writing the testing ID number on the form.
3. All consent forms must have a witness signature (i.e. the counselor)
4. Waiving one’s anonymity is specifically for those clients testing HIV positive. It is important that the client understand the necessity of having the HIV positive test result with his/her name as documentation of an HIV positive result to initiate early case management/treatment services. A client will not be denied other services if s/he does not waive anonymity. If the client does not waive anonymity, they may have to re-test at a later date in order to have documentation of a positive HIV test result and to access HIV-related services.
5. During the follow-up counseling session, if an anonymous client chooses to waive his/her anonymity, the client must sign the consent form and it must be witnessed.

CONSENT FORM FOR CONFIDENTIAL HIV ANTIBODY TEST

CONSENT TO BE TESTED:

Information about the HIV test was given to me.
All my questions have been answered.
I understand the benefits and limitations of this test.
I agree to be tested.

YES NO

Patient Information:

Street Address: _____

City: _____ State _____ Zip Code: _____

Phone: _____ Date of Birth: _____

Signature of Client or Legal Representative

Client's Printed Name

Witness Signature

Legal Representative's Relationship to the Client

Instructions:

1. Please ensure that clients read and understand the information provided on this consent form. If clients are unable to read or understand this information, the counselor should read it to them.
2. Confidential clients who want to be tested must indicate their consent by marking yes or no and dating and signing this form after receiving information about HIV. The client's name should be printed beside the signature.
3. If a legal representative of the client signs the consent form, their relationship to the client must be indicated on the appropriate line.
4. Confidential clients must provide a complete address, including a phone number where they may be reached. Every effort should be exercised by the test counselor to obtain the most accurate locating information. Explain to the client that this information will be kept strictly confidential.
5. All consent forms must have a witness signature.

APPENDIX E: Release of Information Form Templates

**AUTHORIZATION OF RELEASE OF HIV ANTIBODY TEST RESULTS
TO THIRD PARTY**

I _____, having given written informed consent to
(name of client)

_____, dated _____ to perform
(name of agency)

a HIV antibody test, do hereby request and authorize the written disclosure of my HIV test results to:

NAME: _____

ADDRESS: _____

I understand that the result of my HIV antibody test cannot be further disclosed without my written authorization and that all other provisions for confidentiality of test results under Maine law (5 M.R.S.A., Part 23, Chapter 501, Section 19203) remain in effect.

Signature of person authorizing release

Date

(Must be same person who signed "Informed Consent to Test for HIV Antibodies" form)

Signature of Witness

Date

AUTHORIZATION FOR RELEASE OF HIV INFORMATION IN THIRD PARTY PRESENCE

I, _____, authorize
(name of client)

_____ on _____ to
(name of agency) (date)

discuss my HIV antibody test results, provide education and information, and provide

Partner Services and referrals in the presence of _____.
(name of third party)

I understand that the result of my HIV antibody test cannot be further disclosed without my written authorization and that all other provisions for confidentiality of test results under Maine law remain in effect.

Signature of person authorizing release

Date

Signature of witness

Date

**AUTHORIZATION OF RELEASE FOR THIRD PARTY TO RECEIVE HIV
CONFIRMATORY TEST RESULTS (Positive)**

Date: _____

Dear: _____

This letter is to inform you, upon client request and with his/her written consent, that HIV antibody testing was performed on _____ and the results are as follows:
(date of test)

_____ HIV- 1 & 2 Antibody, EIA: **DETECTED (positive)**

_____ Confirmatory HIV Test: **DETECTED (positive)**

Client Name: _____ *Date of Birth:* _____

Test ID Number: _____

PLEASE NOTE: These HIV test results mean that antibodies for HIV were detected in the client's laboratory-confirmatory HIV test and the client is HIV positive. The above tests only tested for the HIV virus and the results do not tell us whether or not the client has an AIDS diagnosis. **The State of Maine, HIV, STD and Viral Hepatitis Program, strongly recommends that the client seek medical advice as soon as possible. Prior to sexual contact and/or sharing needles or works, disclosure of HIV status to sex and/or needle-sharing partners is strongly recommended. Additionally, the client is encouraged to use a latex barrier (condom or dental dam) when having sex and/or to not share needles and works when using IV drugs.**

Unless otherwise provided by law, Maine law prohibits further disclosure of HIV antibody test results without written consent of the client.

Please call the Maine HIV, STD and Viral Hepatitis Program at 207.287.3747 if you would like further information on HIV/AIDS.

Sincerely,

(name of tester)

(name of testing agency)

APPENDIX E: RELEASE OF INFORMATION FORMS

**AUTHORIZATION OF RELEASE FOR THIRD PARTY TO RECEIVE
CONFIRMATORY HIV TEST RESULTS (Negative)**

Date: _____

Dear: _____

This letter is to inform you, upon client request and with his/her written consent, that HIV antibody testing was performed on _____ and the results are as follows:
(date of test)

____ HIV- 1 & 2 Antibody, EIA: **NOT DETECTED**

Client Name: _____ *Date of Birth:* _____

Test ID Number: _____

PLEASE NOTE: A negative result means this test did not detect HIV antibodies. However, HIV cannot be ruled out completely. If the client recently (within 3 months) had any possible exposure to HIV, it is still possible they are infected with HIV. HIV antibodies are detectable 4 weeks after exposure, but may take as long as 12 weeks (3 months) for the test to detect antibodies. A negative result does not mean that you are immune to HIV. **The State of Maine, HIV, STD and Viral Hepatitis Program advises that people reduce future risk(s) by either abstaining from sexual contact or using a latex barrier (condoms or dental dams) each time they have sex, and/or if they use IV drugs, do not share needles and works.**

Unless otherwise provided by law, Maine law prohibits further disclosure of HIV antibody test results without written consent of the client.

Please call the Maine HIV, STD and Viral Hepatitis Program at 207.287.3747 if you would like further information on HIV/AIDS.

Sincerely,

(name of tester)

(name of testing agency)

APPENDIX F: Giving Positive Test Results Recommendations

Giving Results and HIV Counseling

Rapid HIV tests can be conducted within a single session counseling session, during which the risk assessment, behavioral counseling and harm reduction plan are conducted primarily before and/or during the time when the specimen is collected and tested. Then, the plan is adjusted as needed be if the result is reactive. Results should ideally be given by the same person that conducts any pre-test counseling who may be the same person conducting the test, or a primary healthcare provider when done in the context of a healthcare visit.

Conventional HIV tests (non-rapid) will also contain risk assessment, behavioral counseling and harm reduction plan but will be conducted over two sessions. The main difference is that you will know the result before the client returns a second time and can have any necessary referrals prepared accordingly. As this test will be confirmed at the lab, you do not need to re-test; you should simply refer the client on for care. The other difference is the possibility of an indeterminate result, which means a result is inconclusive (could indicate a recent infection or a test reaction to something other than HIV). For indeterminate results, you will advise the client to return for re-testing in 4 weeks.

As required by law, post-test counseling for confirmed positive results must contain the following:

A. Test results and their reliability and significance:

- Positive result means HIV antibodies were detected.
- Some patients may confused by the terms “negative” and “positive.”
- “Positive” results may be understood as “good” and “negative” as “bad.”
- The accuracy of the test.

B. Information on good preventive practices:

- Importance of risk reduction for health maintenance and protection of partners.
- Creating a plan for reducing the risk of transmitting HIV to others.

C. Referrals for medical care, information and referrals for support services, including social and emotional support and legal services as needed:

- Prompt medical evaluation of immune system, importance of early treatment and immune system protection, STD, TB and Hepatitis screenings.
- Importance of informing sex/needle sharing partners. Partner Services (PS) available through the Maine Center for Disease Control. These services allow patients to maintain their anonymity while ensuring partners are notified by a disease intervention worker.
- Any additional referrals, as needed.

APPENDIX F: POSITIVE TEST RESULT RECOMMENDATIONS

GIVING A POSITIVE HIV TEST RESULT QUICK GUIDE

CONTENT	MESSAGE
Assess client’s readiness to receive result.	<ul style="list-style-type: none"> • <i>Are you ready to hear your result?</i>
Provide positive result of the test clearly and simply.	<ul style="list-style-type: none"> • <i>Your test result came back positive.</i> • <i>I have your HIV test result, and it is positive.</i>
Explain the meaning of a positive test result.	<ul style="list-style-type: none"> • <i>This means the test detected markers of HIV in your blood.</i> • <i>This means that the test shows that you have been infected with HIV.</i>
Allow the client time to absorb the test results.	<ul style="list-style-type: none"> • (Counselor: allow for some silent time for the client to process the meaning statement) • <i>Take your time; we have plenty of time to talk about the results and what to do next.</i>
Assess the client’s understanding and emotional reaction to the result.	<ul style="list-style-type: none"> • (Counselor: Remain client-centered) • <i>What does this mean to you?</i> • <i>How are you feeling about this result?</i> • <i>What questions do you have about this result?</i>
Advise client to take precautions to avoid transmitting infection to others.	<ul style="list-style-type: none"> • <i>Let’s talk about ways to protect yourself.</i> • <i>How do you plan to prevent getting any other infections and/or STDs?</i> • <i>How do you plan to prevent transmitting HIV to others?</i>
Emphasize the importance of getting linked to medical care.	<ul style="list-style-type: none"> • (Counselors: Discuss confidentiality and restrictions on release of results.) • <i>Let’s talk about your medical care. Do you have a doctor or provider that you would like to stay with, or would you like me to make an appointment with an HIV specialist?</i>
Assess client’s support system and discuss the client’s immediate plans	<ul style="list-style-type: none"> • <i>Who can you go to for support?</i> • (Counselors: Help them think about who they do and do not want to tell) • <i>What are your plans for the next few hours? Weeks?</i> • (Counselors: Make a follow-up plan to check in with the client, if necessary)
Discuss other services and make referrals as necessary (i.e. partner services, case management, AIDS Drug Assistance Program, prevention services, support groups, etc.).	<ul style="list-style-type: none"> • <i>There are services to help people living with HIV. Let’s talk about what’s available to you.</i> • <i>What else can I assist you with today?</i>

APPENDIX F: POSITIVE TEST RESULT RECOMMENDATIONS

GIVING A POSITIVE HIV TEST RESULT - DETAILED

Below are some steps and messages you may use to provide a positive HIV test result.

- 1) Assess the client's readiness to receive the result.**
- 2) Share the result in simple language, making sure they understand.**

For a rapid test, you can use language such as:

"The initial test result is positive, indicating that you are likely infected with HIV. This must be confirmed with another test to determine whether or not you have HIV infection. We can take a sample today and send it to the lab for that confirmatory test."

With a conventional confirmatory test, you can use language such as,

"The HIV test result is positive; this means that you are infected with HIV."

Remember your primary role at this moment is to attend to their emotional response. It is important to stay with the client both physically and emotionally. Take cues from the client as to what they need from you, knowing that most clients see testing positive for HIV as a crisis in their lives. Clients may be unable to hear or integrate much information during this session.

Remain client-centered. Acknowledge the client's feelings. Don't intrude with your own agenda.

"Take your time, we have plenty of time to talk about the results."

"How are you feeling about this?"

"What questions do you have?"

The priorities then will be to facilitate or arrange for confirmatory testing (if using a rapid test), assess need for referrals and support for the individual such as mental health support and an HIV specialty care provider, and ensure that you have contact information for follow-up and a plan regarding confirmatory test results. Any discussion of the client's post-test options such as case management, medical care, partner notification, support systems, etc. should be guided by the client's ability to attend to it.

- 3) With the rapid test only: Facilitate the sample collection for confirmatory test. Indicate on the lab slip that the rapid HIV test was reactive.**

- 4) Give referrals – at a minimum to HIV medical care.**

If you can, make the telephone calls to set up appointments for HIV medical care or other services right there with the client. Most HIV clinics have someone on-call to speak with someone who is newly diagnosed if needed.

- 5) Assess need for emotional support.**

"It can be difficult dealing with this. How are you doing? Who can be supportive in dealing with this?"

Suicide – Every Counselor's Fear

A common fear on the part of HIV counselors is that in the face of a positive HIV test, their clients will become suicidal and they will not know how to deal with this or how to help them. First, you should know that this reaction is extremely rare. Many people show no emotion upon

APPENDIX F: POSITIVE TEST RESULT RECOMMENDATIONS

being given a positive result—it's important to be careful not to put our own emotions or preconceived ideas of how we think we would feel on to the client.

That said, any suicidal thoughts or ideas expressed by the client should be taken seriously, and appropriate referrals and support given. If the client does express suicidal thoughts or feelings, you can ask *"Is this bothering you so much that you are thinking about killing yourself?"* Asking the suicide question is appropriate if the issue comes up. It demonstrates that you are genuinely concerned about the person in distress. Offer to assist in obtaining whatever help they would like. If that person is uncomfortable talking to you, a family member, or a doctor, tell them they can always call the Maine Statewide Crisis Hotline (1-888-568-1112) or the National Suicide Prevention Lifeline (1-800-273-8255).

6) Prevention Plan

Remind the client of the importance of protecting oneself and others to avoid transmitting the virus.

7) Confirm Contact Information and a Follow-Up Plan

Help your client make a plan:

- Talk about the next few hours, week, two weeks
- For instance, they may want to call in sick to work
- Help them think about who they do and do not want to tell
- Think about who they can go to for support

8) Take a moment to yourself or to process with a co-worker.

As always, it's important to maintain boundaries and confidentiality, and be professional while taking care of yourself. Remember, all that is expected is that you provide results with a caring and non-judgmental approach, and that you have the knowledge and understanding that will lead them to the people who *are* experts in treating and dealing with HIV.

Other Suggestions

- Allow for sufficient time to discuss positive results with the client.
- Position chairs so neither provider or client is backed up against the wall or does not have access to the door
- Give results in a confidential area
- Avoid giving results out on Fridays or holidays. Referral sources may not be available.

APPENDIX G: HIGH RISK CRITERIA

APPENDIX G: High Risk Criteria for No-Cost HIV Testing

**Maine CDC HIV, STD, & Viral Hepatitis Program
Risk Criteria for No-Cost HIV Testing**

If an individual has never had an HIV test **AND** indicates any of the following during the counseling session,

OR if an individual who has had a prior HIV test[#] indicates any of the following within the last 12 months during the counseling session, then

the following individuals qualify for a no-cost HIV test

- A man who has sex* with men (MSM)
- A person who injects drugs or other substances (IDU)
- A person who is a member of a racial or ethnic minority
- A person who is transgender

Other risks that qualify individuals for a no-cost HIV test include the following:

Risk	Male	Female
Unprotected sex* with a known HIV-positive individual	Yes	Yes [†]
Unprotected sex* with a known IDU	Yes	Yes [†]
Unprotected sex* with men who have sex with men	(MSM, see above)	Yes [†]
Used alcohol or other non-injection drugs while engaging in unprotected sex*	No	Yes [†]
Trading unprotected sex* for money, goods, drugs, and/or survival needs	No	Yes [†]
Unprotected sex* with multiple sex partners (5+) or anonymous unprotected sex*	No	Yes [†]
If an individual indicates any within the prior 12 months, they qualify for a no-cost HIV test:		
Currently infected with or previously diagnosed with gonorrhea, syphilis, or viral hepatitis (HR01)	Yes	Yes [†]
Is/Was sexually assaulted (HR02)	Yes	Yes
Is/Was Homeless (HR03)	Yes	Yes
Is/Has Been Incarcerated (HR04)	Yes	Yes
Is/Was in Drug Treatment (HR05)	Yes	Yes

* Sex includes receptive or insertive anal sex and/or receptive or insertive vaginal sex

[†] Also known as “Female at Very High Risk” (FVHR)

[#] **NOTE:** If an MSM, IDU, or FVHR has **risks that took place over 12 months ago after their prior HIV test** (e.g. had unprotected sex 14 months ago, but had an HIV test 18 months ago), please indicate the following Local Use Codes on the HIV Test Form:

MSM = HR06

IDU = HR07

FVHR = HR08

APPENDIX H: Local Use Codes for Identifying High Risk Criteria

**Maine CDC HIV Prevention
Local Use Field
RISK & BILLING CODES**

In addition to other high risk criteria, please indicate any applicable high risk codes in the “Local Use” field of the HIV Test form.

If an individual has had the following risk within the prior 12 months, please use the following codes:

HR01	Is/has been infected with gonorrhea, syphilis, and/or viral hepatitis
HR02	Is/was a victim of sexual assault
HR03	Is/was homeless
HR04	Is/has been incarcerated
HR05	Is/was in drug treatment

If an individual has had risks that took place over 12 months ago after their last HIV test, please use the following codes:

HR06	MSM risk over 12 months
HR07	IDU risk over 12 months
HR08	FVHR (Females at very high risk) over 12 months

Please indicate the following codes if applicable (collected for data purposes only):

HR09	Partner Service Referral **
HR10	African-born / Refugee / Asylee

** A DIS referral or a self-reported referral of someone whose partner has been diagnosed with HIV, STD, and/or Viral Hepatitis within the last 12 months

APPENDIX I: CTR Form Cover Sheet

**Monthly Data for HIV Counseling and Testing
Maine HIV, STD and Viral Hepatitis Program**

Reports are due no later than 10 (business) days after the end of the month.

Please submit this form along with copies of counseling forms administered during the month.

Any tests that were administered and the client is not due to return for the results in the same month should not be reflected here.

If no tests were administered this month, please indicate and submit the form.

MONTH: _____

TEST SITE: _____

TEST SITE NUMBER: _____

Please indicate the following:

Total Number of **HIGH RISK** tests administered this month _____
(This should equal the number of forms submitted with this document)

Total test wastage _____
(This includes tests used for controls, training, expired, invalid, etc.)

Total tests completed by agency this month _____
(This is the total of all tests done regardless of funding source)

Completed By: _____

Phone: _____

Email: _____

Please submit all forms to:

**Emer Smith
HIV, STD, and Viral Hepatitis Program
11 State House Station
Augusta, ME 04333**