

 <b>Office of Mental Health</b>	Official Policy Manual	DATE ISSUED 6/18/2019	SUPERSEDES 3/31/2016	PAGE 1 of 11	SECTION # PC-1412
	<b>DIRECTIVE</b>				
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COMMISSIONER'S APPROVAL Ann Marie T. Sullivan, M.D.		TITLE <b>Blood Borne Pathogens - HIV/AIDS, HBV (Hepatitis B), HCV (Hepatitis C)</b>			

## A. Policy Statement

The Office of Mental Health is committed to providing safe care and treatment to patients with diseases caused by blood borne pathogens, including Acquired Immune Deficiency Syndrome (AIDS), Human Immunodeficiency Virus (HIV), Hepatitis B (HBV), and Hepatitis C (HCV). This policy directive incorporates the key inpatient clinical management and administrative issues associated with HIV, AIDS, HBV, and HCV, to ensure the most comprehensive approach to the care and treatment of patients with these infections. This approach emphasizes the need for integration of treatment in managing the physical and psychiatric aspects of care and incorporating the emotional and psychological reactions associated with any life-threatening illness.

This policy directive also provides guidance for State-operated inpatient psychiatric facilities in meeting the testing, counseling, and reporting requirements for patients who have, or have been potentially exposed to, HBV, HCV, or HIV. Each inpatient facility shall ensure that all its affiliated programs and services are made aware and appropriately implement the requirements of this directive. For outpatients, these requirements are the responsibility of the recipient's health care provider.

This directive will be updated periodically and reissued as recommended by the OMH Bureau of Health Services. Facilities are responsible for implementing the provisions of this policy and ensuring they are appropriately reflected in with facility specific policies and procedures. The Bureau of Health Services is available to provide individual facilities with assistance in implementing this policy directive.

***For direction regarding employee safety and health, refer to OM-403 Occupational Exposure to Blood Borne Pathogens.***

## B. Relevant Statutes and Standards

- Public Health Law Article 21: Control of Acute Communicable Diseases
- Public Health Law, Article 27-F: HIV and AIDS related information
- 10 NYCRR Part 63: HIV/AIDS Testing, Reporting and Confidentiality of HIV-Related Information
- 14 NYCRR Part 505: Regarding Testing, Confidentiality, and Precautions Concerning the Human Immunodeficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS)
- 29 CFR 1910.1030: OSHA Regulations (Standards – 29 CFR) – Blood Borne Pathogens
- OMH Official Policy Directive OM-403: Occupational Exposure to Blood Borne Pathogens
- OMH Official Policy Directive PC-502: Cultural and Linguistic Competence
- OMH Official Policy Directive PC-702: Seclusion and Restraint
- OMH Privacy Policy Manual

## Other Resources

- "HIV Testing Toolkit Resources to Support Routine HIV Testing for Adults and Minors", February 2018.
- [http://www.health.ny.gov/diseases/aids/providers/testing/docs/testing\\_toolkit.pdf](http://www.health.ny.gov/diseases/aids/providers/testing/docs/testing_toolkit.pdf)
- [www.hivguidelines.org](http://www.hivguidelines.org)
- [www.health.ny.gov/diseases/aids/index.htm](http://www.health.ny.gov/diseases/aids/index.htm)
- [www.health.ny.gov/diseases/communicable](http://www.health.ny.gov/diseases/communicable)
- [http://www.health.ny.gov/diseases/aids/providers/testing/docs/testing\\_fact\\_sheet.pdf](http://www.health.ny.gov/diseases/aids/providers/testing/docs/testing_fact_sheet.pdf)
- [www.cdc.gov/hepatitis](http://www.cdc.gov/hepatitis)
- [www.medlineplus.gov/hepatitisc.html](http://www.medlineplus.gov/hepatitisc.html)
- OSHA Publication 3186-06R 2003: Model Plans and Programs for the OSHA Blood Borne Pathogens and Hazard Communications Standards. (This document provides a model Exposure Control Plan)
- Centers for Disease Control Workbook for Designing, Implementing, and Evaluating a Sharps Injury Prevention Program, 2008 [www.cdc.gov/sharpssafety/](http://www.cdc.gov/sharpssafety/)
- [www.health.ny.gov/diseases/communicable/hepatitis/hepatitis\\_c/rapid\\_antibody\\_testing/docs/testing\\_law\\_faqs.pdf](http://www.health.ny.gov/diseases/communicable/hepatitis/hepatitis_c/rapid_antibody_testing/docs/testing_law_faqs.pdf)
- <https://www.hiv.gov/hiv-basics/overview/about-hiv-and-aids/what-are-hiv-and-aids>

## C. Definitions

- 1) *Acquired Immunodeficiency Syndrome (AIDS)* means the disease resulting from HIV infection. AIDS is defined as HIV infection and either a CD4+ T-lymphocyte count of less than 200 cells/mm<sup>3</sup> or the presence of an AIDS indicator condition. The AIDS indicator conditions are specific illnesses that are associated with depleted immunologic function.
- 2) *Blood Borne Pathogens* means pathogenic microorganisms that are present in human blood and can cause disease in humans. These pathogens include, but are not limited to, hepatitis B virus (HBV), hepatitis C virus (HCV) and human immunodeficiency virus (HIV).
- 3) *Hepatitis B Virus (HBV)* means an infection caused by the virus Hepatitis B. The virus is contracted through direct contact with the blood or body fluids of an infected person, and can cause a life-long viral infection, cirrhosis of the liver, liver cancer, liver failure, and death.
- 4) *Hepatitis C Virus (HCV)* means an infection caused by the Hepatitis C virus. This virus is contracted through contact with the blood of an infected person – blood transfusions and use of injected drugs. This virus is commonly spread through the use of shared needles, occupational sharps exposure, or passed to a newborn child by an infected mother during birth.
- 5) *Human Immunodeficiency Virus (HIV) Positive* means an infection caused the virus that causes AIDS. HIV is a retro virus that has the CD4+ T-lymphocyte as its primary target. The CD4+ T-lymphocyte coordinates several immunologic functions, and a loss of these functions results in progressive impairment of the immune response. HIV is acquired through sexual contact or through significant exposure to infected blood or body fluids.

- 6) *Immunocompromised* means the state of a person whose immune system response has been weakened by immunosuppressive drugs, irradiation, malnutrition and/or some disease process.
- 7) *Other Potentially Infectious Materials* means and includes:
  - a) the following human body fluids: semen, vaginal secretions, cerebrospinal fluid, synovial fluid, pleural fluid, pericardial fluid, peritoneal fluid, amniotic fluid, saliva in dental procedures, any body fluid that is visibly contaminated with blood, and all body fluids in situations where it is difficult or impossible to differentiate between body fluids;
  - b) any unfixed tissue or organ (other than intact skin) from a human (living or dead); or
  - c) HIV-containing cell or tissue cultures, organ cultures, and HIV- or HBV-containing culture medium or other solutions; and blood, organs, or other tissues from experimental animals infected with HIV or HBV.
- 8) *Standard/Universal Precautions* means measures to be practiced by all health care workers in caring for all patients to reduce the transmission of microorganisms from both recognized and unrecognized sources of infection by preventing exposure to blood and body fluids and moist body substances, by approaching infection control as if all human blood and certain body fluids are treated as infectious for HIV, HCV, HBV, and other blood borne pathogens.

#### **D. Body of the Directive**

- 1) ***Policies and Procedures.*** Each facility shall develop policies and procedures for the testing and clinical management of patients with HIV/AIDS, HBV, or HCV, which incorporate the provisions of this policy directive, comply with current laws and regulations applicable to the care of all patients, and accommodate regimens necessary to address the medical and psychiatric needs of patients with these infections. Such policies and procedures shall be developed, updated, and monitored for compliance by the facility's Infection Control Committee.
- 2) ***Admission Procedures/Offer of Testing***
  - (a) Individuals with HIV/AIDS, HBV or HCV are to be admitted to OMH facilities in accordance with established admission criteria. On a case-by-case basis, it must be determined whether the person's primary need is for psychiatric or medical care. As indicated, a referral may be made to a medical facility.
  - (b) A policy of nondiscrimination regarding HIV/AIDS, HBV and HCV pertains to all clinical placements.
  - (c) During the admissions process, screening tests for certain Blood Borne Pathogens must be offered. Offers of testing must be culturally and linguistically appropriate in accordance with OMH official policy directive PC-502 - Cultural and Linguistic Competence.
    - (i) Inpatients born between 1948 and 1965 **must** be offered a screening test for HCV.

- (ii) Inpatients 13 years of age and older must be offered a screening test for HIV as part of routine care.<sup>1</sup> If HIV is suspected in patients less than 13 years of age, HIV testing should be offered to the person authorized by law to consent to health care for that individual.
- (d) Facilities may not use HIV testing for exclusion screening of patients for admission.
- (e) On admission to the facility, all patients should be screened for a history of behaviors that would place them at high risk for HIV, HBV, or HCV infection. These behaviors include, but are not limited to: sexual activity with multiple partners or with a high-risk partner, a history of sexually transmitted diseases other than HIV, HBV or HCV, sexual behavior with a known HIV infected partner, or a history of alcohol/drug dependence  
  
Patients at high risk for HIV, HBV, and HCV infection should be offered testing annually.
- (f) The offer of testing, patient consent or declination, and the provision of testing for HIV, HBV or HCV must be documented in the patient's clinical record.

### 3) **Testing Requirements.**

#### (a) **Consent.**

- (i) HIV: Informed consent is no longer required to conduct an HIV test of a patient.<sup>2</sup> HIV testing remains voluntary and patients have the right to refuse an HIV test.
  - A. At a minimum, patients must be orally informed that HIV testing is going to be conducted and he or she has the right to decline the test.
  - B. Consent to HIV testing can be obtained in one of the following two ways to meet the requirements in law:
    - 1. A member of the care team can orally inform the patient that HIV testing will be conducted. Information, including informing the patient of their right to decline the test, may be provided orally, in writing, electronically, via office signage or any patient-friendly audio-visual method. If the patient declines to be tested, the test cannot proceed, and the objection must be noted in the patient's medical record.

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<sup>1</sup> Young people aged 13-18 may consent to their own HIV testing unless the health care provider has a concern about the young person's ability to understand the nature or consequences of HIV testing. If such a concern exists, the provider should consult with the adolescent's parents or caretakers. As with adults, there is no requirement to obtain written or oral consent for the HIV test. Young people age 13-18 shall be advised that HIV testing is going to be conducted and that they have the right to decline an HIV test.

<sup>2</sup> Effective November 28, 2016, amendments to PHL section 2781 removed the requirement for written or oral informed consent prior to ordering an HIV test. All references to consent forms have been removed.

2. The facility may include an explanation that HIV testing is routinely conducted in the general medical consent statement that is signed to authorize treatment. If the patient signs a general medical consent form that includes such a statement, they have been effectively informed of the test and have provided consent. Information, including informing the patient of their right to decline the test, may be provided orally, in writing, electronically, via office signage or any patient-friendly audio-visual method. If the patient declines to be tested, the test cannot proceed, and the objection must be noted in the patient's medical record.
  - C. In cases where the patient declines HIV testing he or she should be asked about the reason for declination, be given the opportunity to ask questions and have his or her concerns addressed and be informed of the clinical benefits of knowing his or her HIV status. If a patient objects to the test, HIV testing may **NOT** be conducted.
  - D. In cases where the patient lacks capacity to consent, it is unlikely he or she will regain capacity and there is a pressing health care need to obtain HIV status, consultation should be sought from the Office of Mental Health's Bureau of Health Services prior to taking any action. Consent may be obtained by the Bureau of Health Services in consultation with the Office of Counsel.
  - E. In unusual and extreme circumstances where obtaining consent for HIV testing is clearly indicated yet cannot be obtained, consultation should be sought from the Bureau of Health Services prior to initiating any action in consultation with the Office of Counsel.
- (ii) HCV/HBV: Consent is required prior to testing for HCV or HBV, but separate informed consent is not required. Whatever method a facility uses to obtain consent for other types of medical services (e.g., testing, screenings, procedures, etc.), consent for HCV and HBV screening may remain the same (e.g., for facilities using a general medical consent for medical services, this consent would cover HCV and HBV testing).
- b) **Pre-test counseling.** Before consenting to testing, pre-testing counseling, consistent OMH official policy directive PC-502 - Cultural and Linguistic Competence shall be provided in accordance with the following:
  - (i) HIV: For HIV testing, the following key points **MUST** be provided to the patient in orally, in writing, electronically, via office signage or any patient-friendly audio-visual before the test is conducted:
    - A. HIV is the virus that causes AIDS. It can be spread through unprotected sex (vaginal, anal, or oral sex) with someone who has HIV; by contact with HIV-infected blood by sharing needles (piercing, tattooing, drug equipment, including needles); by HIV-infected pregnant women to their infants during pregnancy or delivery, or by breast feeding.

- B. There are treatments for HIV/AIDS that can help a person stay healthy.
  - C. People with HIV/AIDS can use safe practices to protect others from becoming infected. Safe practices also protect people with HIV/AIDS from being infected with different strains of HIV.
  - D. Testing is voluntary and can be done anonymously (at a public testing center).
  - E. By law, HIV test results and other related information are kept confidential.
  - F. Discrimination based on a person's HIV status is illegal. People who are discriminated against can get help.
  - G. By law, HIV testing must **NOT** be performed over a person's objection.
- (iii) HCV: For HCV testing, before testing is ordered, the patient's ability, regardless of age, to comprehend the nature and consequences of HCV testing should be assessed and testing deferred if the patient's ability to understand is temporarily impaired. For those for whom testing is appropriate, patient education is **recommended**. Patient education materials prepared by the Department of Health are available at [http://www.health.ny.gov/diseases/communicable/hepatitis/hepatitis\\_c/providers/testing\\_law.htm](http://www.health.ny.gov/diseases/communicable/hepatitis/hepatitis_c/providers/testing_law.htm)
- (iv) HBV: While there are no express requirements for pre-test counseling of HBV, basic education about HIV should be provided to patients. Informational materials for patients regarding HBV are available from the Department of Health at [http://www.health.ny.gov/diseases/communicable/hepatitis/hepatitis\\_b/consumer.htm](http://www.health.ny.gov/diseases/communicable/hepatitis/hepatitis_b/consumer.htm)
- (c) **Post-Test Counseling.** Post-test counseling regarding the results of an HIV, HCV, or HBV test shall be provided consistent with OMH Official Policy Directive PC-502 – Cultural and Linguistic Competence, and in accordance with the following:
- i) HIV: HIV counseling based on testing results must be made by the provider who ordered the testing (or his/her representative).
    - A. For patients with **negative** results, counseling must be given to the subject of the test (or, a person authorized pursuant to law to consent to health care for that individual), regarding the risk of participating in high-risk sexual or needle sharing behavior.
    - B. For patients who receive HIV testing and the results **indicate evidence of HIV infection**, the patient, (or a person authorized pursuant to law to consent to health care for that individual), shall be provided with counseling addressing the following:
      1. strategies for coping emotionally with the test results;
      2. discrimination issues relating to employment, housing, public accommodations, health care and social services;

3. the importance of taking precautions to prevent HIV transmission to others;
4. the ability to release or revoke the release of confidential HIV-related information;
5. HIV reporting requirements for the purposes of epidemiologic monitoring of the HIV/AIDS epidemic;
6. the importance of notifying contacts to prevent transmission, and allowing early access of exposed persons to HIV testing, health care, and prevention services, and a description of notification options and assistance available to the protected individual;
7. an assessment of the risk of domestic violence in conformance with a domestic violence screening protocol developed by the Commissioner pursuant to law; Patients may be referred to the New York State Coalition Against Domestic Violence at 1-800-942-6906 (English)
8. the requirement that known contacts, including a known spouse, will be reported to the State Health Department and that protected persons will also be requested to cooperate in contact notification efforts of known contacts and may name additional contacts they wish to have notified with the assistance of the provider or authorized public health officials;
9. non-disclosure of the protected individual's name or other information about them during the contact notification process;
10. the provider's responsibility for making an appointment for newly diagnosed persons to receive follow-up HIV medical care;
11. the availability of medical services and the location and telephone numbers of treatment sites, information on the use of HIV chemotherapeutics for prophylaxis and treatment and peer group support, access to prevention, education and support services and assistance, if needed, in obtaining any of these services;
12. prevention of perinatal transmission; and
13. the importance of remaining in care to maintain good health and reduce the likelihood of transmission to others, and that if protected individuals appear not to be receiving HIV medical care, health care providers, entities engaged in care coordination or local and state health departments may contact them to help address any challenges or barriers that may be affecting their ability to initiate and remain in care.

(ii) HCV:

- A. For **non-reactive** screening tests, patients should be counseled that a negative test is not protection from future infection; that recent exposure (in the past 6 months) should trigger a recommendation for repeat screening in 6 months; and that the patient should try to make healthy choices and get vaccinated against HAV and HBV if appropriate.
- B. For **reactive** screening tests, the facility must offer the patient follow-up health care (including an HCV diagnostic test to confirm a diagnosis of chronic HCV) or refer him/her to a health care provider who can provide care. In addition, the facility should advise the patient of the meaning of a reactive antibody test (including an explanation that the patient is most likely chronically infected), provide information about the disease and available treatment planning choices; the importance of minimizing risk behaviors to avoid transmission to others, healthy liver practices, and the benefits of vaccination against HAV and HBV, if appropriate.

(iii) HBV:

- A. For **non-reactive** screening tests, the facility should advise the patient that a negative test is not protection from future infection, that recent exposure (in the past 6 months) should trigger a recommendation for repeat screening in 6 months, and that the patient should try to make healthy choices and get vaccinated against HAV and HCV if appropriate.
- B. For **reactive** screening tests, the facility should advise the patient of the meaning of a reactive antibody test and provide information about the disease and available treatment planning choices, the importance of minimizing risk behaviors to avoid transmission to others, and healthy liver practices (such as stopping or reducing alcohol intake).

**(4) Comprehensive Assessment and Care**

- (a) At the time of initial positive test results, all patients with known HBV, HCV, HIV infection or AIDS must have a comprehensive assessment conducted by the treating physician. Such assessment should be done as soon as possible but no later than 72 hours after identification; provided, however, for patients with known or identified HIV infections or AIDS, a telephone consultation with an HIV specialist should occur within 24 hours of admission;<sup>3</sup> This is imperative, given the drug-drug interactions with antiretroviral medications and psychotropic medications.
  - (i) Results of these assessments must be documented on a form and format designated by the Office of Mental Health.

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<sup>3</sup> Resources for Consultation: The NYS Department of Health AIDS Institute can be contacted between 8:30 AM and 5:00PM Monday through Friday for consultation and referrals by phoning 866-637-2342. In NYC, the Provider Access Line is 866-692-3641. These numbers should be prominently posted for all staff.



- (ii) For persons with known HIV infection or AIDS, the psychiatric component of the comprehensive assessment should incorporate the psychiatric symptomatology associated with AIDS and differentiate between functional illness and AIDS-related organicity.
- (b) Steps should be taken to prevent a lapse in medication therapy for HBV, HCV, HIV or AIDS.
- (c) Patients at risk may be offered pre-exposure prophylaxis (PrEP) to reduce the chance of infection in those exposed to ongoing risky behavior.
- (d) Comprehensive Care
  - (i) Behavioral management decisions for patients with HIV AIDS, HBV or HCV shall be determined on an individual basis and must include consideration of both physical and psychiatric conditions. Restraint and/or seclusion decisions will be made in accordance with OMH Official Policy PC-701 (Seclusion and Restraint);
  - (ii) Each facility's infection control program must comply with the guidelines established by the Centers for Disease Control and Prevention (CDC) for preventing transmission of blood borne pathogens, annual infection control updates mandated by OSHA, standards of The Joint Commission, and OMH Official Policy Directive OM 403 – Occupational Exposure to Blood Borne Pathogens.
  - (iii) For patients with HIV/AIDS, due to the complex management of these conditions with co-existing psychiatric illness, ongoing consultation with a physician experienced in the treatment of HIV/AIDS is required. This consultation component should be continued in the discharge planning process for a warm hand-off in the community.
  - (iv) Discharge planning for patients with HIV, HBV, HCV infection or AIDS must be based on the patient's psychiatric condition. The written service plan should, if appropriate, include the provision and coordination of necessary physical health care and treatment through appropriate medical services.
  - (v) In accordance with existing federal and state laws and regulations including Public Health Law Article 27-F, specific written consent of the patient or legal guardian is required for the release of HIV related patient information. Exceptions to the requirement of obtaining written consent are limited to compliance with federal, state or local reporting mandates; and, provision of necessary health care and aftercare to patients. When consent of the patient is not required, staff should discuss the disclosure with the patient as clinically indicated. Each facility must maintain a high index of sensitivity and discretion to ensure that unnecessary or unduly detrimental disclosures are prevented.

## (5) Provider Reporting and Notification Requirements

(a) HIV: For HIV positive results:

- (i) The names of patients who consent for HIV testing and who test HIV seropositive must be reported by the provider to the NYS Department of Health by completing the Medical Provider Report Form (DOH-4189) within 14 days of diagnosis. Providers who have this responsibility include: physicians, nurse practitioners, physician's assistants and nurse midwives. The form should be sent to Division of Epidemiology, Evaluation and Research, PO Box 2073 ESP Station, Albany, NY 12220-2073. Questions can be directed to 518-474-4284. For facilities within New York City, the report should be made to the New York City Department of Health via the providers NYCMED account. More information is available from the Provider Assistance Line at 866-692-3641, 212-442-3388, or [www.nyc.gov/nycmed](http://www.nyc.gov/nycmed). The Health Department will follow up with the provider to confirm the case, gather epidemiological information and to offer partner notification assistance services.
- (ii) The reporting provider has the responsibility to report to the Department of Health the names of all known sexual and needle-sharing partners including spouses, as well as any other contacts named by the patient.
- (iii) In cases where persons reported to the Department of Health as potential HIV contacts are inpatients within an OMH facility:
  - A. Public health staff will first contact the Clinical Director at the OMH facility in which the individual resides. The Clinical Director will identify the relevant physician for the inpatient who has been named as a partner/contact. Public health partner notification staff will work through OMH clinical staff who have an established relationship with the patient;
  - B. If the OMH clinical staff will have already handled partner notification, no further public health follow up will take place with any individual for whom notification activities have been completed. OMH staff will provide public health staff with necessary details for documentation of notifications completed;
  - C. If OMH clinical staff have not already handled partner notification, OMH clinical staff and public health staff will discuss the best approach, with specific decisions made on a case-by-case basis; involvement of treating clinicians will enable assessment of the patient's current psychiatric condition. It will also enable agreement to be reached on the best time and manner for any public health follow-up. In some cases, joint notification (i.e., notification by OMH clinical staff together with public health staff) may be a viable option; and
  - D. Public health workers will not approach patients, if this would be contraindicated by the patients' psychiatric condition

(b) HBC/HBV: For positive Hepatitis B and C Results:

- (i) Within 24 hours of diagnosis, providers must report positive Hepatitis B and C results to the NYS Department of Health in accordance with 10 NYCRR Sections 2.10 and 2.14 through the local health department using the Communicable Disease Reporting Form (DOH-389). Providers in NYC must use the Universal Reporting Form (PD-16) to report positive results to the NYC Department of Health and Mental Hygiene (NYCDOHMH).

(c) Additional Information on Communicable Disease Reporting

- (i) Information is available from the NYS Department of Health, Bureau of Communicable Disease Control at 518-473-4439 or 866-881-2809 after hours. In NYC, providers can contact NYCDOHMH at 866-NYC-DOH1 (866-692-3641).