

Pediatric HIV in Texas

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Texas Legal Issues Relating to HIV in Children

The following are brief overviews of some of the Texas statutes concerning legal issues that often arise when caring for children and adolescents with HIV. When possible, web sites with more information have been added. Most of the information here has been obtained from the Texas Department of Health and/or the Texas statutes.



The Texas Capitol building in Austin at dusk

Consent for testing

Informed consent for an HIV test should be obtained prior to testing an individual. Written consent does not need to be obtained if there is documentation in the medical record that the test has been explained and consent has been obtained. (Sec. 81.105 of the Texas Health and Safety Code).

If a person has signed a general consent form for the performance of medical tests or procedures, a separate consent is not required for HIV testing. (Sec. 81.105 of the Texas Health and Safety Code).

Counseling

A positive test result cannot be given to a person without the opportunity for immediate, individual counseling. Counseling should include:

- The meaning of the test result
- The possible need for additional testing
- Measures to prevent the transmission of HIV
- Availability of health care services
- The benefits of partner notification and the availability of partner notification programs

Reporting requirements

As of January 1, 1999 all new cases of HIV infection or AIDS must be reported to the Texas Department of Health by name. The exception to this is those tests that are obtained at anonymous testing sites. The laboratory and the health care provider who obtained the results should make both reports. Reports can be made to the Texas Department of Health at **1-800-705-8868**. Reports should include:

- The name, address, birth date, sex, and race/ethnicity of the infected person,
- The test type, test date, and test result,
- The name and address of the provider making the HIV diagnosis.

Confidentiality/disclosure laws

All test results reported to the surveillance team at TDH are confidential. This information may not be released to law enforcement agencies, immigration agencies, the media, insurance companies, employers or family members.

Test results may be released to: the health department, the CDC, the physician or health care provider who ordered the test, the person tested, or the spouse of the person tested. Under certain circumstances test results may be released to a public professional (law enforcement, correctional officer, etc). See section 81.050 of the Texas Health and Safety Code for details.


A health care provider is not required to report a test result to the spouse or sexual partner of an HIV-infected person. The health care provider can encourage the individual to disclose their status, or to utilize the health department's anonymous notification program.

Adolescents

Adolescents may consent for their own treatment for HIV under the same provisions that allow them to consent for treatment for other sexually transmitted diseases, Section 32.003 of the Texas Family Code. The health care provider is not required to inform their parent/s or legal guardian. However, because of the complex nature of the treatment for HIV, we strongly encourage our adolescents to involve a caregiver.

School/Day Care

Universal precautions are to be practiced at all schools at all times. Hence, it is unnecessary to inform the school or daycare of a child's HIV status. In fact, it is illegal for any health



professional or school personnel to disclose a child's HIV status without parental permission. Children with HIV should be allowed to participate in all school-related activities. Under the Individuals with Disabilities Education Act (IDEA) all children with developmental or physical disabilities as a result of their HIV infection are entitled all necessary educational services. See the American Academy of Pediatrics statement for more details.

Legal Links:

- For updates on the rules governing care for HIV and other sexually transmitted diseases:
<http://www.tdh.state.tx.us/hivstd/policy>
- Lists the actual Texas Code: www.state.tx.us/Law
- "Issues Related to Human Immunodeficiency Virus Transmission in Schools, Child Care, Medical Settings, the Home, and Community (RE9838)": www.aap.org/policy
- "American Academy of Pediatrics: Education of Children with Human Immunodeficiency Virus Infection" Pediatrics, June 2000, www.aap.org/policy

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