



Model Protocol for HIV Counseling and Testing in Non-Health Care Settings

Florida law carefully structures how health care providers and other registered test sites may conduct HIV testing. The Model Protocol provides guidelines for performing HIV testing and counseling in accordance with statutory requirements and established public health policy.

In Florida, HIV testing is established and governed by section 381.004, Florida Statutes, Florida Administrative Code Rule 64D-2.004, Internal Operating Procedures, and Model Protocols, all of which are in line with the HIV testing guidelines issued by the Centers for Disease Control and Prevention.

"Non-health care setting" means any site that conducts HIV testing for the sole purpose of identifying HIV infection. These settings do not provide any type of medical treatment and include community-based organizations, outreach settings, county health department HIV testing programs, and mobile vans.

1. Pre-Test Counseling

All county health department HIV testing programs, community-based organizations, outreach settings, and mobile vans must provide HIV pre-test counseling prior to testing for HIV. Pre-test counseling should include the following:

- Purpose of the HIV test, including medical indications
- Possibility of false positive or false negative result
- Possible need for confirmatory testing
- Possible need for retesting
- Availability, benefits, and confidentiality of partner notification services
- Need to eliminate high-risk behavior

2. Informed Consent

No person shall perform an HIV test without first obtaining the informed consent of the test subject or his or her legal representative. Informed consent to perform a test for HIV need not be in writing if there is documentation in the medical record that the test has been explained and consent has been obtained. Exceptions can be found in Florida Administrative Code Rule 64D-2.004(3)(a)(b)(c). The limited exceptions to obtaining informed consent can be found in section 381.004(2)(h), Florida Statutes, and in Florida Administrative Code Rule 64D-2.004(1). When obtaining informed consent, explain that:

- HIV test results and the fact that a person is tested are confidential and protected by law. Persons with knowledge of an individual's HIV test result have legal obligations to protect this information from unauthorized disclosure. Florida law imposes strict penalties for breaches of confidentiality.

- Positive test results, along with identifying information, will be reported to the local county health department for surveillance and follow-up purposes.
- A list of anonymous test sites, including the locations, phone numbers, and hours of operation, is available at the local county health department or at www.floridaaids.org.

3. Post-test Counseling

All county health department HIV testing programs, community-based organizations, outreach settings, and mobile vans must provide face-to-face post-test counseling. The person ordering the test, or that person's designee, shall ensure that all reasonable efforts are made to notify the test subject of his or her test result. Post-test counseling should include the following:

- The meaning of the test result
- The possible need for additional testing
- The need to eliminate high risk behavior
- Post-test counseling for negative test results for those at high risk should include the availability of Pre-Exposure Prophylaxis
- Post-test counseling for positive test results must also include information on the availability of medical and support services; the importance of notifying partners including spouses and former spouses from the past 10 years of their potential exposure; and preventing HIV transmission

4. Release of Preliminary HIV Test Results

Pursuant to section 381.004(2)(d), Florida Statutes, preliminary test results may be released to the person tested and to health care providers when decisions about medical care or treatment cannot await the results of confirmatory testing. Positive preliminary HIV test results shall not be characterized as a diagnosis of HIV infection. The health care provider who ordered the test must document justification for the use of preliminary test results in the medical record. This does not authorize the release of preliminary test results for the purpose of routine identification of HIV-infected individuals or when HIV testing is incidental to the preliminary diagnosis or care of a patient. Corroborating or confirmatory testing must be conducted as follow up to a positive preliminary test. Results shall be communicated to the patient according to statute regardless of outcome. The results of rapid testing technologies are considered preliminary; however, these results may be released in accordance with the manufacturer's instructions as approved by the U.S. Food and Drug Administration.

5. Repeat Testing

All persons likely to be at high risk for HIV should be offered testing at least annually. The following criteria should be used to help the test subject determine his or her level of risk:

- Sexual behavior
- Substance use/abuse
- Needle sharing
- Occupational exposure
- Blood, blood products, transplants
- Partners at risk for HIV
- History of sexually transmitted disease(s)

- Child of woman with HIV/AIDS
- History of sexual assault/domestic violence
- Sex for drugs/money

Testing should also be based on local HIV prevalence. Men who have sex with men should be tested at least twice annually.