

HIV/STD

Reporting Requirements for Virginia Physicians

Virginia Department of Health

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General HIV/STD Reporting Requirements

Part one of a three-part series

Introduction

This booklet contains basic information on the most common HIV/AIDS/STD reporting issues faced by physicians. It is designed to serve as a quick and handy reference. It is NOT a comprehensive manual on Virginia reporting requirements.

For a complete list of regulations as well as details on specific legislation, VDH publishes "*Regulations for Disease Reporting and Control.*" You may obtain a copy of this publication by calling the Virginia HIV/STD/Viral Hepatitis hotline 1.800.533.4148.

How does HIV reporting Benefit my Patients?

Reporting for HIV and AIDS enables people who are infected with HIV to receive treatment earlier and reach their exposed partners more quickly. As a result, partners are informed of their risk factors, seek testing and, if infected, seek care.

HIV reporting also provides data to better characterize populations in which HIV has been newly diagnosed and thus target state efforts for prevention and education. AIDS case surveillance alone does not accurately reflect the extent of the HIV epidemic emerging populations. Reporting these cases is extremely important, as the data are used to target preventive efforts, monitor trends and allocate health care resources appropriately.

Contrary to the claim that name-based case reporting discourages individuals from seeking HIV testing and care, several studies by the Centers for Disease Control and Prevention (CDC) as well as local health departments have shown that name-based reporting does not hinder individuals from seeking testing. In addition, Virginia's confidential testing numbers have increased or remained steady over the last years, while anonymous testing has decreased- another indication that reporting HIV cases does not deter people from being tested.

Basic Reporting Requirements

- **(Section 32.1-35, 32.1-36, 32.1-55.1 of the Code of VA)**

What to report

- HIV (Human Immunodeficiency Virus)
- AIDS (Acquired Immune Deficiency Syndrome). **HIV and AIDS separate reportable diseases.**
- Sexually Transmitted Diseases (STD), including syphilis, gonorrhea, chlamydia, chancroid, granuloma inguinale and lymphogranuloma venereum.

How to report

- **Confidential testing** reports include name, address and other identifying information.
- **Anonymous testing** sites are specifically excluded from the requirement to report by name and do not record identifying information. They report aggregate numbers only.
- Diseases are reported to your local health department on the Epi-1 form. Most diseases are to be reported within one week of diagnosis; however, the form identifies a few diseases that must be reported more rapidly than one week. The Epi-1 form is found in Appendix A of the Code of VA.
- **You must report whenever you provide care to a newly infected patient** regardless if that person has been tested at an anonymous test site, seen by another provider or received care in another state.

Confidentiality

(Section 32.1-36.1 of the Code of VA)

Confidentiality is the cornerstone of HIV/STD surveillance and prevention. Without the guarantee of confidentiality, individuals may be reluctant to seek testing or to disclose information about their partners. This reluctance may increase transmission of HIV and other STDs and impedes surveillance and prevention efforts. Therefore, HIV and STD test results shall remain confidential.

Lawful Disclosure

The results of every test to determine infection with HIV may only be released to the following individuals:

- The person being tested or his/her legal representative;
- Any person designated in a release signed by the individual being tested or his/her legal representative;
- Other health professionals caring for the HIV positive person;
- A pediatrician caring for the child of an HIV infected mother;
- Health care facility staff committees which monitor, evaluate or review programs or services;
- Medical or epidemiological researchers for use as statistical data only;
- Anyone allowed access to such information by a court order;
- Any facility which distributes or uses blood, other body fluids, tissues or organs;
- The parent or legal guardian of a minor;
- The legal spouse of the person who is being tested;
- The Virginia Department of Health for its own use or for disease surveillance by health departments outside of the state.

You are required by law to report a positive HIV test to the state health department.

You are not required, nor do you have a duty, to release the test results to persons listed in this section even though they may be authorized to receive them.

Unlawful Disclosure

(Section 32.1-38 of the Code of VA)

If it is found that a person has willfully or through gross negligence made an unauthorized disclosure of a patient's HIV status, he/she will be liable for civil penalties.

Immunity

(HB814 Section 32.1-38 of the Code of VA)

Any person making a report or disclosure that is authorized under the law, including any voluntary reports submitted to the Department of Health for special surveillance or other studies, is immune from civil liability or criminal penalty.

Informed Consent and Deemed Consent

Informed Consent

(Section 32.1-37.2 of the Code of VA)

Before performing an HIV test, you are required by law to provide patients with a written or oral explanation of the meaning of the test.

Every person who receives an HIV test should also be given the opportunity to receive face-to-face disclosure of the test result and appropriate counseling. Appropriate counseling should include the following:

- An explanation of the test results as well as an explanation about the need for additional testing when applicable;
- Possible methods by which the patient contracted HIV and how the patient can prevent further transmission;
- Effects of HIV infection on the patient;
- Availability of appropriate health care, mental health services and social services;
- The need to notify any person who may have been exposed to the virus. (You do not have to gather the information yourself. Health department professionals will be glad to assist you. See part three in this series, Partner Counseling and Referral Services, for more information on the partner notification process.)

Deemed Consent

(Section 32.1-45.1 of the Code of VA)

Whenever a health care provider is directly exposed to body fluids of a patient in a manner which may transmit HIV (or hepatitis B or C), the patient whose body fluids were involved in the exposure is "deemed" to have consented to testing those diseases and no additional informed consent is needed. In addition, the patient is also "deemed" to have consented to the release of test results to the person who was exposed. Other than in an emergency situation, the health care provider must inform patients of these requirements before providing them with health care services which create the risk of exposure.

The same requirements are in effect if a patient is directing exposed to body fluids of a health care provider in a manner which may transmit HIV (or hepatitis B or C). In such instances, the health care provider shall be “deemed” to have consented to testing for such diseases and to have consented to testing for such diseases and to have consented to the release of test results to the exposed patient.

If a test is performed, both the person being tested and the person who has been exposed must receive counseling and an opportunity for in-person disclosure of any test results.

Partner Counseling and Referral Services (PCRS)

(Section 32.1-36.1 of the Code of VA)

Partner Counseling and Referral Services (PCRS) give public health workers the opportunity to provide services to partners of infected patients so they can avoid infection and transmission of disease.

PCRS is performed in accordance with state law which requires confidentiality of results of all tests for HIV.

Virginia law permits discussion between physicians and local health departments. It is **NOT** a breach of confidentiality to consult with the health department, nor is it a breach to communicate the identities of the patient’s partners to your local health department. Anonymity of the client and the provider will be protected.

For more detailed information on PCRS requirements see part three in this series, Partner Counseling and Referral Services.

Duty to Protect

(54.1-2403.2. of the Code of VA)

Legislation was enacted in 1994 requiring specific licensed providers, including physicians, to notify third parties who were identified by a patient as someone the patient planned to harm.

As a physician, **your duty to protect** arises when:

- A client has communicated to you (orally, in writing or through sign language) a threat to cause bodily injury or death;
- The threat is specific and immediate;
- The target of the threat is an identified or readily identifiable person(s); AND
- You believe that the threatening patient has the intent and the ability to carry out the threat

In cases where you feel you have a duty to protect, your responsibilities are:

- To make a reasonable attempt to warn the potential victim(s);
- To make a reasonable effort to notify a law enforcement official having jurisdiction in either the patient’s place of residence or work or the potential victim’s place of residence or work; AND

- To take steps reasonable available to prevent the patient from using physical violence or other means of harm to others until the appropriate law enforcement agency can be summoned and takes custody of the patient.

Liability

In cases where you a duty to protect, you are immune from liability for:

- Breaching confidentiality with the limited purpose of protecting third parties;
- Failing to take precautions other than those listed above; or
- Failing to predict, in the absence of a threat (as outlined above) that the patient would cause the third party harm.

Isolation

(32.1-48.01 through 32.1-48.04, 18.2-67.4:1 of the Code of VA)

There are some legal penalties for persons who have communicable diseases (including HIV) who place others at risk. However, before action can be taken against someone who may be, transmitting HIV, the following must occur:

- The person must be aware of his/her disease or infection status; and
- There must be two verified reports of the person engaged in risky behavior or medical evidence that the person has engaged in risky behavior

Once notified, the health department may issue an order for the person to receive counseling on transmission, effects and prevention. In cases where the person ignores health department warnings, the State Attorney General can issue a court order to detain the person for 120 days.

An individual who knows that he or she has HIV, syphilis or hepatitis B and has sexual contact with another person with the intent to transmit the infection can be prosecuted.

If you have concerns about a patient, you should communicate your concerns to the appropriate person in your local health department.

Treatment of Minors

(54-2969 of the Code of VA)

A minor shall be considered an adult for the purpose of consenting to testing or treatment of venereal disease including HIV.

For information on infants born to HIV-infected mothers, see part two in this series, *Perinatal Reporting Requirements*.

Additional Venereal Disease (STD) Requirements

(Section 32.156 of the Code of VA)

Any person who examines or treats a patient with an STD must provide the patient with information about the disease, including as a minimum:

- The nature of the disease;
- Methods of treatment;

- How to prevent the disease transmission; and
- The necessity of tests to ensure that treatment has been achieved.

Perinatal HIV/STD Counseling, Testing & Reporting Requirements Part two of a three-part series

Introduction

The goal of the Virginia Department of Health in requiring HIV/STD (sexually transmitted disease) Perinatal Reporting is to prevent the transmission of HIV infection or other STDs to newborns. HIV/AIDS was one of the leading causes of death in children under the age of five until 1994 when medical advancements dramatically reduced by two-thirds the mother's likelihood of transmitting HIV to her baby.

Perinatal counseling, testing and surveillance can provide many benefits which are outlined in this brochure.

How do my Patients Benefit?

Counseling and testing benefit pregnant women because:

- They know their HIV status and how to avoid infection.
- They can receive treatment for other STDs.
- They can make informed decisions about treatment options.
- They can avoid infecting their partner or their unborn child.
- They can make informed decisions about pregnancy options.
- When women are appropriately counseled, studies have shown that most women will agree to be tested for HIV during their pregnancy.

Other points:

- The number of reported cases translates into public funds targeted to the community for treatment, education and prevention activities.
- The sequence of counseling, testing and reporting contributes to scientific understanding of HIV infection and the public health goals of controlling and characterizing the epidemic.

How do the Children Benefit?

Counseling and testing benefit infants because:

- Mothers who know their HIV status can make informed decisions about treatment.
- Providers can make informed decisions about perinatal treatment and care after birth.
- Treating an HIV infection during pregnancy and delivery *substantially reduces* the chance that an HIV-exposed infant will become infected.
- Treating STDs can prevent birth defects and stillborn births.

Other points:

- Analysis of aggregated data allows scientists and clinicians to make informed decisions about best treatment practices for children.

Counseling and Testing

STD

(12 V AC 5-90-1 30 Prenatal Testing)

All pregnant women are required by law to receive a syphilis and hepatitis B test from their physician.

When should I test?

Every physician *must* examine and test all pregnant patients for syphilis and hepatitis B within 15 days of the patient's first visit. Second tests for both syphilis and hepatitis B must be conducted at the beginning of the third trimester for women who are at higher risk for these diseases.

If a patient only seeks care during the third trimester, only one test is required. You should also examine and test a pregnant woman for any STD as clinically indicated.

What patients are considered high risk?

Persons at higher risk for syphilis include those who have had multiple sexual partners within the previous year and those with any prior history of a STD.

Persons at higher risk for hepatitis B virus infection include injecting drug users, those with personal contact with a hepatitis B patient, anyone who has had multiple sexual partners and/or anyone who has had an occupational exposure to blood.

HIV

As a routine component of prenatal care, you are *required by law* to advise all pregnant women of the value of testing for HIV infection and offer them voluntary HIV testing. Any pregnant woman has the right to refuse to have an HIV test and she also has the right to refuse any treatment. Whatever the *patient's response, it should be documented in her medical records.*

When should I test?

- Testing as early as possible in a pregnancy is best because it leads to early treatment if a patient is HIV-infected.
- Testing should be offered throughout pregnancy if high-risk behavior is suspected.
- In general, clinical trials show that putting HIV-infected pregnant women into treatment early during pregnancy reduces vertical transmission the most.

When should I counsel?

- Counseling should be done with the offer of a voluntary HIV test.
- Counseling as early as possible in a pregnancy is best.

What do I need to do if my patient tests positive for HIV?

You will need to follow the same procedures that you would for all other HIV positive patients. These procedures are outlined in part one of this series, *General HIV/STD Reporting Requirements*.

What Steps are involved in Reporting Pediatric HIV Cases?

- Providers send a report of an HIV infection on a Confidentiality Morbidity Report Form (Epi-1) to the local health department. (Forms are available by calling 804-864-8037).
- The local health department will forward this initial report to the state Department of Health.
- In the case of HIV, the Virginia Department of Health, Division of HIV/STD pediatric coordinator will follow each case for approximately 18 months until the child's serostatus is known.

What Steps are Involved in Reporting Congenital Syphilis Cases?

- Providers send a report of a congenital syphilis case on a Confidentiality Morbidity Report Form (Epi-1) to the local health department.
- The local health department forwards this initial report to the state Department of Health.

Do I Have to Gather all the Information Myself?

- No. After the initial report to the local health department, health counselors gather most of the necessary case data.

Partner Counseling & Referral Services

Part three of three-part series

Introduction

Partner Counseling and Referral Services (PCRS) give public health workers a means of reaching people who are truly at-risk for HIV/STD – sex and/or needle-sharing partners of an individual who recently tested positive. In years past, this activity was referred to as Partner Notification (PN). Today, the term Partner Counseling and Referral Services more accurately reflects the range of services available to HIV/STD- infected persons, their partners and the community. Once notified of his or her exposure to HIV/STDs, the partner is then offered counseling, testing and other services. The ultimate goal of PCRS is to interrupt the transmission of HIV/STDs by providing services to partners so they can avoid infection and prevent transmitting diseases.

What are “Partner Counseling and Referral Services” (PCRS)?

PCRS is performed in accordance with the State Board of Health, *Regulations for Disease Reporting and Control*, section 32.1-36.1. Virginia law permits discussion between physicians and the local health department reporting PCRS activities.

There are five essential PCRS concepts that must be taken into consideration before PCRS should be conducted:

1. PCRS is voluntary;
2. Confidentiality of the infected patient and their partners is essential;
3. Client-centered communication is the most effective means of counseling a patient;
4. PCRS is ongoing; and
5. PCRS can be conducted at anonymous test sites.

Why is PCRS Important?

- Partner Counseling and referral, when conducted by a trained counselor, provides partners with crucial health information, counseling and referral services.
- The development of effective therapies, i.e. highly active antiretroviral therapy (HAART), that can delay the progression of diseases has made it more crucial to reach individuals as early as possible.
- A current or past female partner may be pregnant or contemplating pregnancy. If infected with HIV and/or an STD, she will need appropriate information to make choices regarding testing and possible treatment to help prevent transmission of the disease to her baby.

How is PCRS Conducted?

PCRS can be conducted by using one or a combination of the following options:

- Provider Referral- the PCRS provider refers the partner for counseling, testing, and other services (confidentiality is never compromised; no patient information is ever shared with the partners).
- Client Referral- the patient, after coaching from the PCRS provider, refers his or her own partners (confidentiality of patient cannot be maintained).
- Contract Referral- the patient makes the initial attempt to refer partners; if unsuccessful, PCRS provider conducts referral (provider must still protect confidentiality of the patient and their partners).

Studies indicate that PCRS, when conducted by a trained health care provider, is more effective than if the patient referred their own partners for counseling and testing, especially when there are numerous partners to be notified (West & Shark, 1997).

Is PCRS Effective?

PCRS may be more cost-effective than other strategies at locating partners who are at risk of HIV/STDs. Many people at-risk of acquiring HIV/STDs are unaware of, misunderstood, discount, or deny their risk of infection. Sex and/or needle-sharing partners of HIV-infected patients have high rates of seropositivity, ranging from 5% to 56% (Centers for Disease Control & Prevention). Once notified that they have recently been exposed to HIV and appropriately counseled, most will seek HIV testing and many will demonstrate significant risk reduction behavior changes.

What are My Responsibilities?

During Pre-test Counseling

During test decision (pre-test) counseling, inform the patient who is being tested for HIV that there will be a need to notify past and present sex and/or needle-sharing partners if his/her test results are positive. Inform the patient that the health care provider or the local health department can perform confidential PCRS.

During Post-Test Counseling of a Positive Patient

- Provide assistance to patients who are notifying partners, including spouses, and verify that those partners have been notified, and/or
- Refer individuals to the local health department for assistance in notifying partners, and/or
- Refer partners notified by the patient for counseling & testing.

How Do I Verify that Partner Referral has Taken Place?

This can be achieved by one or more of the following means:

- The provider notifies the partner;
- A health department professional notifies the partner;
- The partner of your patient tells you that they have been notified; or
- Your patient tells you that their partners have been notified.

How will Local Health Department Assistance Benefit my Patients?

There are many patients who prefer to have a health department professional notify their sex and/or needle-sharing partners. Patients are often overwhelmed by mental, physical, and emotional concerns. They may have little or no resources available to notify partners. Many patients do not want to disclose that they are infected with HIV or an STD. In addition, some patients fear their partners' possible reaction to being informed of being exposed to HIV/STDs- anger, rejection, withdrawal, and possible violence. In addition, the local health department can also offer language interpretation assistance, including sign language.

If I Want to Assist My Patient with PCRS, What Are The Steps?

Discuss with your patient all possible partners that could be at risk of HIV/STD infection. Focus on partners who have had sex and/or shared needles with the patient during the time the patient could have been infectious. This point of reference is referred to as the interview period. This time varies, depending on the patient's disease. For HIV, it is usually one year from the positive test date, but should be extended for those diagnosed with AIDS. If you have questions regarding the appropriate interview period, call your local health department. A health professional will assist you in determining the appropriate interview period. Confirm which partners your patient will notify and which partners your patient would like assistance in notifying.

For partners your patient plans to notify:

- Discuss when, where, how they will notify them.
- Discuss the patient's expectations and possible reactions of the partners.
- Provide coaching (possible ways of informing the partners of their HIV/STD positive status and the partner's exposure and risk of being infected).
- Establish a system to confirm that the patient has informed their partners of the exposure.
- Inform them that confidentiality of the patient's HIV/STD status cannot be protected when the patients perform their own PCRS.

For the partners that your patient wants the health department to notify, gathering as much of the following locating information as possible will facilitate locating those partners:

- Partner name, age (date of birth if known), sex and race/ethnicity
- Description: height, weight, complexion, eye and hair color, hair style, facial hair, tattoos, glasses, and any other distinguishing features. (This information is used to protect the confidentiality of the partner through positive identification).
- Address and home telephone numbers.
- Name of any adult living with this partner and their relationship with that partner, i.e. roommate, sibling, etc.
- Workplace and telephone number.
- Places where this partner spends time or “hangs out” (bars, street corners, pool hall, if partner is incarcerated, etc.).
- Names and phone numbers of relatives or friends who might be helpful in locating this partner.
- The type of exposure with the partner (sex and/or needle-sharing) and possible time period when the exposure took place.
- Many patients will not have all of this information. In some cases, partners can be found with less information. However, the more information gathered, the greater the possibility of finding the partner.

Please, contact your local health department with all pertinent locating information.

You do not have to gather the information yourself. Health department professionals will be glad to assist you in your PCRS activities.

Summary of PCRS

PCRS activities are performed in accordance with the State Board of Health, *Regulations for Disease Reporting and Control*, section 32.1-36.1, which requires confidentiality of results of all tests for Human Immunodeficiency Virus (HIV). It is not a breach of confidentiality to consult with the health department, nor is it a breach to communicate the identities of the patient’s partners to you local health department. Anonymity of the patient and the provider will be protected. (Contact tracing for HIV, syphilis, tuberculosis, and other diseases deemed necessary is authorized under 12 VAC 5-90-80 of the Regulations for Disease Reporting and Control section 32.1-38.)

For more information or assistance with PCRS, call your local health department.

For more information on resources for persons with HIV/AIDS/STDs or to obtain a copy of “Regulations for Disease Reporting and Control” call the Virginia HIV/STD/Viral Hepatitis Hotline 1-800-533-4148

You may also call the hotline for general information on reporting requirements.