



## Frequently Asked Questions Regarding Changes to Act 148

In 2006, the Centers for Disease Control and Prevention (CDC) published the Revised Recommendations for HIV Testing of Adults, Adolescents, and Pregnant Women in Health-Care Settings. In an effort to align state law with these recommendations, in summer 2011, the Pennsylvania Legislature passed a bill that Governor Corbett signed into law, Act 59 of 2011, amending PA's Confidentiality of HIV-Related Information Act (also known as Act 148). The following summarize the recent amendments to Act 148:

- 1. In place of informed *written* consent, clinical providers are now required to *document* patients' informed consent in their medical records.**
- 2. Clinical providers may offer opt-out testing, where patients are informed they will be tested unless they decline.**
- 3. The Pretest Counseling provision has been removed, although patients must be given "an explanation of the test, including its purpose, potential uses, limitations and meaning of its results" before consenting.**
- 4. Negative test results no longer must be given in person, face-to-face.**
- 5. Positive results must be given with the immediate opportunity for face-to-face consultation about specific topics.**

Implementing routine HIV testing is, without a doubt, good patient care and a critical step toward reducing transmission of HIV. Understandably, questions and concerns may arise surrounding compliance with the new law and its implications for health care providers. In anticipation of such concerns, the Pennsylvania/MidAtlantic AIDS Education and Training Center's Health Federation of Philadelphia (AETC) has compiled a list of Frequently Asked Questions, including resources and contact information for further technical assistance. If you plan to alter your organization's consent protocol, it is essential that you address the issue with your legal counsel to ensure that your procedures remain in accordance with the law and your institution's policies.

- **When does the new law take effect?**
  - The new law took effect on Wednesday, September 6, 2011.
  
- **Is there information I am required to provide before a person is tested for HIV?**
  - All persons should be advised of: (1) the purpose of the test, (2) the implications of a positive or negative test result, (3) the confidentiality protections in place regarding the test results, and (4) any other pertinent information about HIV and testing.
  
- **What happens if I do not alter my consent protocol now that the law is effective?**
  - Nothing; you will not be violating the law if you make no change to your protocol. However, please be aware that the law is designed to remove barriers to routine HIV screening.
  - Act 59 constitutes a baseline for the new legal requirements regarding counseling, informed consent, and documentation thereof. You are always free to exceed the legal requirements to accommodate your institution's policy.
  
- **Where can I view a copy of the Health Alert regarding the amendments to Act 148 from the PA Department of Health?**
  - [HAN #208 - 7/20/2011 - Advisory - Amendment to Pennsylvania's Confidentiality of HIV - Related Information Act \(Act 148\)](#)
  
- **What does it mean to “document” the opt-out (consent) discussion, as referred to in Section 5 (a)(1):... “without first obtaining the informed documented consent of the subject”?**
  - The legislators decided not to provide a definition for “document”; likewise, we may assume that a reasonable definition for the term should suffice. However, it is recommended that you refer this question to your organization's legal counsel to agree on your institution's consent and charting protocols.
  - The most prudent protocol appears to be that providers should document whenever they offer HIV testing. That documentation should include: (1) that the mandated pretest explanation was provided, and (2) the patient's decision about whether to participate in the testing.

- **Does the law require post-test counseling for negative test results?**
  - In the case of a negative HIV test result, the law no longer requires face-to-face post-test counseling. However, best practice is still to provide, perhaps via written materials, information about re-testing recommendations for recent exposures and risk-reduction behaviors. For examples of patient education materials, visit the CDC’s website at <http://www.cdc.gov/hiv/default.htm> or contact the AETC at (215) 557-2101 or the PA Expanded HIV Testing Initiative at (717) 531-0003 ext. 283268.
  
- **What does it mean to “afford” a patient who has tested positive “the immediate opportunity for individual, face-to-face counseling?”**
  - The wisest approach is always to provide face-to-face post-test counseling to a patient with a positive test result. Any further questions concerning the interpretation of this language should be directed to your organization’s legal counsel.
  - Consideration should be given as to how to handle providing positive results, as patients might infer from receiving a phone call to schedule another appointment that their results came back positive. Please consult your institution on how to approach this issue.
  
- **What does the new law mean for my practice or institution’s consent form? May I change my consent protocol?**
  - The new law does not require a separate written consent in clinical settings; rather, it requires that the opt-out consent conversations and statutory explanations be documented in the medical record.
  - Consent protocols may now be changed.
  
- **If my patient tests positive, where can I send my patients to receive HIV services if I don’t provide them myself?**
  - The following link will take you to the Metropolitan Philadelphia Area Ryan White Funded HIV Medical Providers list: <http://www.pamaaetc.org/downloads/RWProviders-Philadelphia2011.pdf>. All of these sites provide comprehensive HIV clinical care regardless of the patient’s ability to pay. You may also discuss co-managing the care if you are not providing HIV-specific care yourself. The AIDS Education and Training Center is available to assist you.

- For referrals to HIV medical care, other HIV services or HIV testing sites, call the Philadelphia Department of Public Health's Information Helpline at (215) 985-2437. State-wide information on HIV prevention and care service providers can be obtained through the AIDS Factline at 1-800-662-6080 or at [www.stophiv.com](http://www.stophiv.com).

- **How do I report HIV positive cases?**

- To report in Philadelphia: Cases can be reported on a standard CDC report form to the Philadelphia Department of Public Health, AIDS Activities Coordinating Office, by calling (215) 685-4781 during the day or by mailing the completed form to: City of Philadelphia Department of Public Health, Post Office Box #58909, Philadelphia, PA 19102-8909.
- To see what the law says about HIV/AIDS reporting requirements, please click the following link [chapter 27 of PA State Code]: <http://www.pacode.com/secure/data/028/chapter27/chap27toc.html> or click: [27.32a](#) to view the relevant section.

- **What does the new law say about discretionary partner notification?**

- No positive test result shall be revealed to the subject without affording the subject the immediate opportunity for individual, face-to-face counseling about the benefits of locating and counseling any individual who the infected subject may have exposed to HIV and the availability of any services with respect to locating and counseling such individual.

- **I know that partner notification services exist. Where can I access information on services for locating and counseling partners or others whom the patient may have exposed to HIV?**

- Partner Services maintains confidentiality for patients whose HIV test results are positive and assists them by notifying identified partners that they should be tested for HIV.
- **In Philadelphia:** For free partner notification services, contact the following Partner Services Specialists in the Philadelphia Department of Public Health:
  - Faith Kane: (215) 685-5665 or [Faith.Kane@phila.gov](mailto:Faith.Kane@phila.gov); or
  - Molly Hubbard: (215) 685-5489 or [Molly.Hubbard@phila.gov](mailto:Molly.Hubbard@phila.gov)

- For assistance with Partner Services state-wide, please find a chart of contacts at the end of the document.
- **Where can I find professional medical associations’ statements on routine HIV testing?**
  - The following link takes you to professional medical associations’ statements on routine HIV testing: <http://www.pamaaetc.org/downloads/PMA-HIVtesting.pdf>
- **Where can I access further info regarding implementation of routine HIV testing or other relevant technical assistance?**
  - Please contact any of the following:
    - **In Philadelphia:**
      - The Pennsylvania/MidAtlantic AIDS Education and Training Center (ETC), Philadelphia Performance Site at [HIVTest@healthfederation.org](mailto:HIVTest@healthfederation.org) or (215) 557-2101; or
    - **In Pennsylvania and nationally:**
      - The Pennsylvania Expanded HIV Testing Initiative at <http://pennstatehershey.org/sites/pehti/>; or
      - The Pennsylvania/MidAtlantic AIDS Education and Training Center (ETC),Center Headquarters at <http://www.pamaaetc.org/> or (412) 624-1895
      - National HIV/AIDS Clinicians Consultation Center at [www.ucsf.edu/hivcntr](http://www.ucsf.edu/hivcntr) or 1-800-933-3413

**State-wide Partner Services (contacts):**

<b>Southeast District</b>		
Kenneth Culton (Lancaster)	717-299-7597	<a href="mailto:keculton@state.pa.us">keculton@state.pa.us</a>
Zane Szurgot	610-378-4351	<a href="mailto:zsurgot@state.pa.us">zsurgot@state.pa.us</a>
Tracie Procanyn	610-378-4351	<a href="mailto:tprocanyn@pa.gov">tprocanyn@pa.gov</a>
Debra Butler (Delaware)	610-447-3250	<a href="mailto:debrbutler@pa.gov">debrbutler@pa.gov</a>
Paula Green (Delaware)	610-447-3250	<a href="mailto:paugreen@pa.gov">paugreen@pa.gov</a>
Linda Barksdale (Delaware)	610-447-3250	<a href="mailto:lbarksdale@pa.gov">lbarksdale@pa.gov</a>
<b>South Central District</b>		
Linda Stoss	717-787-8092	<a href="mailto:lstoss@state.pa.us">lstoss@state.pa.us</a>
Kim Jarrett	717-787-8092	<a href="mailto:kjarrett@pa.gov">kjarrett@pa.gov</a>
Don Price	717-787-8092	<a href="mailto:dprice@pa.gov">dprice@pa.gov</a>
<b>Southwest District</b>		

Barbara Hoza	724-830-2702	<a href="mailto:bhoza@state.pa.us">bhoza@state.pa.us</a>
Bob Fuhrman	724-830-2701	<a href="mailto:rfuhrman@state.pa.us">rfuhrman@state.pa.us</a>
Alan McNamara	724-830-2701	<a href="mailto:almcnamara@pa.gov">almcnamara@pa.gov</a>
<b><u>Northeast District</u></b>		
Cynthia Zaleppa	570-826-2062	<a href="mailto:czaleppa@state.pa.us">czaleppa@state.pa.us</a>
Paul Baloga	570-826-2062	<a href="mailto:pbaloga@state.pa.us">pbaloga@state.pa.us</a>
John Kaschenbach	570-826-2062	<a href="mailto:jkaschenba@pa.gov">jkaschenba@pa.gov</a>
<b><u>North Central District</u></b>		
Nancy Fioretti	570-327-3400	<a href="mailto:nfioette@state.pa.us">nfioette@state.pa.us</a>
<b><u>Northwest District</u></b>		
Lynn Laurence	724-662-6068	<a href="mailto:llaurence@state.pa.us">llaurence@state.pa.us</a>
Janet Rice	724-662-6068	<a href="mailto:jarice@pa.gov">jarice@pa.gov</a>
<b><u>Allegheny County</u></b>		
Linda Schombert	412-578-8059	<a href="mailto:LSchombert@achd.net">LSchombert@achd.net</a>
<b><u>Allentown Health Bureau</u></b>		
Harold Cruz	610-437-7760	<a href="mailto:cruzh@allentowncity.org">cruzh@allentowncity.org</a>
<b><u>Bethlehem Health Bureau</u></b>		
Jose Cruz	610-865-7083	<a href="mailto:jcruz@bethlehem-pa.gov">jcruz@bethlehem-pa.gov</a>
Zoraida Perez	610-865-7083	<a href="mailto:zperez@bethlehem-pa.gov">zperez@bethlehem-pa.gov</a>
<b><u>Bucks County</u></b>		
Kim Thomas	215-949-5805	<a href="mailto:kmthomas@co.bucks.pa.us">kmthomas@co.bucks.pa.us</a>
Sharita Flaherty	215-345-3835	<a href="mailto:sswashington@co.bucks.pa.us">sswashington@co.bucks.pa.us</a>
<b><u>Chester County</u></b>		
Karen Connor	610-344-6465	<a href="mailto:kconnor@chesco.org">kconnor@chesco.org</a>
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<b><u>Wilkes-Barre City Health Department</u></b>		
Nicole Amos	570-208-4268	<a href="mailto:namos@wilkes-barre.pa.us">namos@wilkes-barre.pa.us</a>
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<b><u>York City Bureau</u></b>		
Linda Otero	717-848-3259	<a href="mailto:lotero@yorkcity.org">lotero@yorkcity.org</a>

**We would appreciate your feedback on this document!**

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