

CHAPTER 49

Consent: HIV Test - Voluntary

I. POLICY

Documentation in the inmate-patient unit health record (UHR) shall reflect that the inmate-patient is tested for HIV only with his written consent, unless the law expressly permits otherwise. Documentation shall show that the provider has explained the nature of the test, the need for the test, what the test will confirm, accuracy of the test results, potential risks, complications, benefits, and the potential adverse results for not following the recommended treatment. The standardized HIV consent form, dated and signed by the inmate-patient, shall attest to the fact that he understands the procedure, and has had an opportunity to ask questions about the test, its meaning, its risks and benefits, and any alternatives to the test. The signed consent form shall provide documentary evidence that the inmate-patient has given informed consent to the HIV test.

Health care providers shall document that they have obtained the inmate-patient's informed consent prior to each testing. The documentation shall be recorded on the standardized form. The form shall be used to supplement the verbal informed consent discussion with the inmate-patient. The inmate-patient refusing to provide informed consent shall be apprised of potential adverse effects of such action.

Documentation shall reflect that for any involuntary testing for HIV, a person lawfully authorized to make health care decisions for the inmate-patient has provided written evidence of informed consent. The informed consent of the inmate-patient's representative shall be obtained when the inmate-patient who, as a result of his mental or physical condition, is not competent to give informed consent to the HIV test and the test is necessary to render appropriate care, or to practice preventative measures, or the test has been performed under statutory exemption. A representative must be a conservator, an "attorney in fact", the next of kin, or other person appointed by the court.

II. PROCEDURE

A. HEALTH CARE STAFF:

1. Explain the purpose of the test
2. Provide the inmate-patient with a Consent for HIV test form.
3. After providing an opportunity for questions and concerns, have the inmate-patient complete and sign the form, and include the full date (month, day, year) and time the form is signed.

4. Provide a competent adult to witness the signing of the form, and:
 - a. Enter the full date: month, day, year. This date shall be the date the inmate-patient signs the form.
 - b. Enter his/her title.
5. Provide a copy to the inmate-patient.
6. Incorporate the original signed and dated copy into the inmate-patient's UHR.