



Ohio Administrative Code

Rule 3701-3-11 Requirements relating to human immunodeficiency virus testing.

Effective: October 30, 2010

(A) A human immunodeficiency virus (HIV) test may be performed by or on the order of the health care provider who, in the exercise of the provider's professional judgment and within the provider's scope of practice, determines the test to be necessary for providing diagnosis and treatment to the individual to be tested if the individual or the individual's parent or guardian has given consent. Prior to performing or ordering an HIV test, the health care provider shall inform the individual to be tested of the individual's right to an anonymous test as set forth in section 3701.242 of the Revised Code and paragraph (C) of this rule.

(B) Pursuant to division (B) of section 3701.242 of the Revised Code, a minor may consent to be given an HIV test. The consent is not subject to disaffirmance because of minority. The parents or guardian of a minor giving consent under this paragraph are not responsible for payments for an HIV test given to the minor without the consent of a parent or the guardian.

(C) Any individual seeking an HIV test shall have the right, on the individual's request, to an anonymous test. A health care facility or health care provider that does not provide anonymous testing shall refer the individual requesting an anonymous test to a site where anonymous testing is available.

(D) If an individual tests positive for HIV, the health care provider who performed or ordered the test shall provide post-test counseling. Post-test counseling is suggested for all individuals seeking testing. Post-test counseling may be verbal or in writing and shall included, but is not limited to, the following:

(1) An explanation of the HIV test result. If, at the time of the HIV test, the result is preliminarily positive, the health care provider must explain the next step to confirm the test result;

(2) The nature of HIV disease;



(3) A list of resources for medical treatment, social services and, when necessary, a referral for further counseling to help that individual cope with the emotional consequences of learning of the test result;

(4) The individual will be provided information about the importance of following safer sex practices to protect themselves from sexually transmitted diseases, as well as how to protect others from being infected; and

(5) The individual will be provided information about Ohio's HIV disclosure laws.

(E) The requirements of paragraphs (B) to (D) of this rule do not apply to the performance of an HIV test in any of the following circumstances:

(1) When the test is performed in a medical emergency by a nurse or physician and the test results are medically necessary to avoid or minimize an immediate danger to the health or safety of the individual to be tested or another individual. Post-test counseling shall be given to the individual if the individual received an HIV positive test result as soon as possible after the emergency is over;

(2) When the test is performed for the purpose of research if the researcher does not know and cannot determine the identity of the individual tested;

(3) When the test is performed by a person who procures, processes, distributes, or uses a human body part from deceased person donated for a purpose specified in Chapter 2108. of the Revised Code, if the test is medically necessary to ensure that the body part is acceptable for its intended purpose;

(4) When the test is performed on a person incarcerated in a penal institution if the head of the institution has determined, based on good cause, that a test is necessary; or

(5) When the test is performed on an individual after the infection control committee of a health care facility, or other body of a health care facility performing a similar function determines that a health care provider, emergency medical service worker, or peace officer, when rendering health or emergency care to an individual, has sustained significant exposure to the body fluids that are known



to transmit HIV of that individual, and the individual has refused to give consent for testing.

(F) The consent of the individual to be tested is not required, and the individual or guardian may not elect to have an anonymous test, when the test is ordered by a court in connection with a criminal investigation.