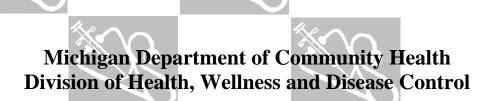
Michigan HIV Laws

How They Affect Physicians and Other Health Care Providers



Revised January 2006

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Since 1986, the Michigan Legislature has passed a number of statutes regarding HIV, hepatitis, and other infectious agents. The statutes relate to testing, informed consent, contact notification and confidentiality, and impose a number of duties on physicians and health care workers providing testing, treatment and care to persons who are, or may be infected. The content of these laws is described below, along with specific citations referencing Michigan's Public Health Code.

Michigan Health Initiative (MHI)

(MCL 333.5901- 333.5929; Public Act 258 of 1987)

This comprehensive set of statutes was enacted to delineate the responsibilities of the Department of Community Health (previously known as the Department of Public Health and henceforth known as "the Department") in HIV/AIDS prevention and control, and worksite health promotion. The statute specifies that the Department shall utilize MHI funds to provide free HIV testing (upon request) to all residents of this state and all non-resident students enrolled in and attending a public or private college, university or other post-secondary educational institution within the state. The MHI funds shall also be used, among other things, to develop and distribute (in conjunction with the Department of Education) a risk reduction and AIDS education module appropriate for pupils in elementary and secondary schools, and for educational programs for health care workers to decrease their risk of workplace exposure.

Definition of HIV Infection

(MCL 333.5901-333.5929; Public Act 258 of 1987)

"HIV Infection" or "HIV-infected" refers to the status of an individual who has tested positive for HIV, evidenced by either a double positive enzyme-linked immunosorbent assay, combined with a positive Western Blot assay test, or a positive result with an HIV test considered reliable by the Centers for Disease Control and Prevention (CDC), and which is approved by the Michigan Department of Community Health (MDCH).

HIV/AIDS Reporting Requirements (Revised January 2006)

(MCL 333.5114; Public Act 489 of 1988 - MCL 333.5114 was updated in December 2004 following passage of Public Act 514)

Reporting of HIV or AIDS in Michigan occurs from both laboratories and health care providers.

Laboratories and health care providers in Michigan must report HIV diagnostic test results ("a test result that indicates that the test subject is HIV infected") to the state or local health department within 7 days of receiving the test result. Diagnostic test results primarily include positive HIV Western blot tests, but also detectable HIV viral load results. These test results are initially sent to the Department (MDCH), (which is able to determine if this result represents a newly diagnosed person), and are then forwarded to the appropriate local health department.

Furthermore, laboratories in Michigan must report non-diagnostic test results in a time frame to be determined by the Department. The Department has set this time frame as being within 30 days of testing. A non-diagnostic HIV test result is defines as "from a test subject who has already been diagnosed as HIV infected, a test result ordered to evaluate immune system status, to quantify HIV levels, or to diagnose acquired immunodeficiency syndrome" and primarily includes undetectable HIV viral loads and CD4 counts and percents.

Providers are required to complete the *Adult* or *Pediatric HIV/AIDS Confidential Case Report* for their HIV infected patients or those with AIDS, since all the required information is not available from the laboratories. Forms CDC 50.42A (Adult) or CDC 50.42B (Peds) are provided by the Department or may be obtained from a local health department or on the web at: http://www.michigan.gov/mdch/0,1607,7-132-2945 5221-13855--,00.html. You can also find the case report forms by going to http://www.michigan.gov/mdch; click on Providers; click on Departmental Forms; click on Communicable Disease Case Definitions and History Forms; pick the appropriate form from the list of "Case History Forms." The report is to include the following information, if available:

- Name and address of person or governmental entity that submits the report
- Name, address, and telephone number of the health care provider who diagnosed the test subject or who ordered the test
- The name, date of birth, race, sex, address, and telephone number of the test subject
- Date on which specimen was collected for testing
- The type of test performed
- The test result
- If known, whether or not the test subject has tested positive for the

presence of HIV or an antibody to HIV on a previous occasion

- The probable mode of transmission
- The purpose of the test

A test subject who undergoes a <u>test</u> for HIV or an antibody to HIV in a physician's private practice office, or in the office of a physician employed by, or under contract to a health maintenance organization may request that the physician submit the case report without the test subject's name, address or telephone number. If this request is made, the physician shall complete the case report form AND submit the specimen to the laboratory without this identifying information. Note that this anonymous reporting option is allowed by law and is based on the test itself, not the disease status (HIV/not AIDS or AIDS) of the test subject. If the patient's name is sent to the laboratory it will be sent to MDCH.

Also, note that local health departments are prohibited from maintaining a **roster of names** of persons with positive HIV test results. Individual case files, encoded to protect the identities of individual test subjects, may be maintained.

Confidentiality of HIV/AIDS Information

(MCL 333.5131; Public Act 488 of 1988, as amended by Act 174 of 1989, Act 270 of 1989, Act 86 of 1992, Act 200 of 1994, and Act 57 of 1997)

HIV-related information is confidential and cannot be released unless the patient authorizes disclosure, or a statutory exception applies. This confidentiality statute applies to all reports, records, and data pertaining to testing, care, treatment, reporting and research, and information pertaining to partner counseling and referral services (formerly known as partner notification) under section 5114a, that are associated with the serious communicable diseases or infections of HIV and AIDS.

Patient-Authorized Disclosures

A patient may authorize a disclosure of his/her medical records. This authorization must be in writing, and must contain a SPECIFIC statement if the release is to also cover HIV-related information in the records.

Subpoena of HIV/AIDS Related Information

If HIV/AIDS information is requested through a court order and subpoena, the court must determine that other ways of obtaining the information are not available or would not be effective; **and** that the public interest and need for the disclosure outweigh the potential for injury to the patient. If these conditions are met, the court order must 1) limit disclosure to those parts of the patient record

essential for the matter in court; 2) limit disclosure to those persons who need the information; and 3) include other measures necessary to limit disclosure for the protection of the patient.

Exemptions to Release of Confidential Information

In general, information pertaining to an individual who is HIV-infected, or who has been diagnosed as having AIDS, can be released without patient consent if it is released to the Department, a local health department, or other health care provider for one or more of the following purposes:

- To protect the health of an individual.
- To prevent further transmission of HIV.
- To diagnose and care for a patient.

Other Confidentiality Exemptions

Disclosure to Known Contacts - Physicians or local health officers can release information pertaining to an individual who is infected with HIV or is diagnosed with AIDS, if the information is released to a known contact of the infected individual, and if the disclosure is determined necessary to prevent a reasonably foreseeable risk of further transmission of HIV. This places an affirmative duty upon the physician or local health officer to notify the known contact(s), or to refer the infected individual to the local health department for assistance with partner counseling and referral services (partner notification) activity.

Disclosure To Individual's School District - Only the Michigan Department of Community Health or a local health department may disclose HIV/AIDS information about an infected individual to a school district for the purpose of preventing a reasonably foreseeable risk of transmission.

Disclosure as Part of Child Protection Law - Information pertaining to an individual infected with HIV, or diagnosed with AIDS, can be released if the information is part of a report required under the child protection law, PA 238 of 1975, MCL 722.621 to 722.636.

Disclosure to Foster Parents - Disclosure of a foster child's serostatus is allowed if the foster parent is the legal guardian. Only the Family Independence Agency (FIA, formerly Department of Social Services), the State Department of Mental Health (currently incorporated into the Department of Community Health), the Probate Court, or a child placing agency may make such a disclosure to the foster parents.

Mandatory Counseling & Informed Consent

(MCL 333.5133; Public Act 488 of 1988,

as amended by Act 200 of 1994 and Act 420 of 1994)

Mandatory Counseling

A physician who orders an HIV test, or a health facility that performs an HIV test, must provide counseling appropriate to the test subject, both BEFORE and AFTER the test is administered. This counseling must include the following:

- an explanation of the test including, but not limited to, the purpose of the test, the potential uses and limitations of the test, and the meaning of test results.
- an explanation of the rights of the test subject including, but not limited to, the right to withdraw consent to the test prior to its administration, the right to confidentiality of test results, and the right to be tested on an anonymous basis.
- designation of the person(s) to whom the test results may be disclosed.

Publicly-funded sites have additional requirements set forth in standards and contract language developed by the Department.

Informed Consent Requirement

Except as described below, all HIV tests to diagnose HIV infection shall be preceded by written, informed consent, executed or signed by the test subject. Informed consent authorizes the testing agency to perform the test with the full knowledge and cooperation of the test subject. The booklet *Important Health Information*, (DCH-0675, previously HP-143), was developed by the Michigan Department of Community Health and includes a standard written consent form. This booklet MUST be distributed to the test subject prior to testing. If the test subject is unable to provide consent, the patient's legally authorized representative must provide the consent. A copy of the signed consent form within the booklet must be included in the test subject's medical record.

Individuals who undergo HIV testing at a Department-approved testing site may request that the HIV test be performed on an anonymous basis (without test subject's name or other identifying information provided). If HIV testing is done on an anonymous basis, informed consent should be documented using a coded system rather than the signature of the test subject.

If the results of an HIV test performed indicate that the test subject is HIV infected, the staff of the Department-approved testing site shall proceed with

partner counseling and referral services in the same manner in which a local health department would proceed (see PCRS law, page 7). MDCH recommends that Department-approved testing sites which are community-based organizations limit their PCRS activities to elicitation and referral of partners only. Investigation of partners is an activity that has been reserved for local health departments.

Copies of the MDCH *Important Health Information* consent booklet are available free of charge from the MDCH, HIV/AIDS Prevention & Intervention Section within the Division of HIV/AIDS and STD.

Exemptions to Informed Consent

The law defines three situations in which consent is NOT required prior to testing:

- If the patient is unable to give consent or to understand the information AND a legal guardian or other authorized representative is not readily available to provide the consent.
- If the HIV test is performed for double-blinded research (i.e., the researcher does not know the identity of the test subject, and the test results are not revealed to the test subject).
- If the HIV test is performed after a health professional, health facility employee, police officer or fire fighter, or medical first responder, emergency medical technician, emergency medical technician specialist, or licensed paramedic sustains a percutaneous, mucous membrane, or open wound exposure to the blood or other body fluids of the patient in the health facility, while treating the patient before transport to a health facility, or while transporting the patient to a health facility.

(Note, in this latter situation, the law also requires that the patient be informed in writing upon admission to the health facility that an HIV test may be performed upon them without their consent. This notification is not to obtain the patient's consent but to inform them of Michigan law about this exemption. "Admission" in this context is defined as the "provision of an inpatient or outpatient health care service in a health facility." In most health facilities, this notification is included on the "face sheet," or included with other admission papers provided when the person is admitted to the health facility.)

Informed Consent for a Minor

(MCL 333.5127; Public Act 491 of 1988)

In general, consent for the provision of medical or surgical care, treatment, or services by a hospital, clinic, or physician that is executed by a minor who is or professes to be infected with a venereal disease or HIV is valid and binding as if the minor had achieved the age of majority. (A minor, or someone who has not achieved the age of majority, is determined to be a person between the ages of 12 and 18, although this is not defined in the law.) If medical care and/or treatment is provided under the minor's consent, then the cost of the care and treatment cannot be charged to the minor's spouse, parent or legal guardian. The minor's attending physician may, but is not obligated to, inform the minor's spouse, parent or legal guardian as to the treatment needed or given, regardless of whether the minor gives consent to release the information to these people.

Partner Counseling and Referral Services (PCRS) (Formerly known as "Partner Notification")

(MCL 333.5114a; Public Act 489 of 1988)

Michigan law allows HIV infected individuals to receive assistance to notify their sex and needle-sharing partners of their potential exposure to HIV. Infected individuals may be counseled to notify their own partner(s); to seek assistance from their physician; or to seek assistance from a local health department. A combination of these approaches may also be used.

The referral to a local health department should include information determined necessary by the local health department to carry out PCRS, and may include, but is not limited to the name, address, and telephone number of the test subject. In response to this referral, the local health department must interview or attempt to interview the test subject within 14 days of receipt of the referral.

As part of the interview process, local health departments are required to inform the test subject that he/she has a legal obligation to inform each of his/her sexual partners about their HIV status prior to engaging in sexual relations, and may be subject to criminal sanctions for failure to do so. The interview conducted under this statute shall be voluntary on the part of the individual being interviewed.

Within 35 days of the interview of the test subject, local health departments are required to confidentially, and in a discreet manner, contact each identified sexual or needle-sharing partner regarding their possible exposure to HIV. Each partner contacted shall receive information regarding the availability of medical tests for HIV, steps to take to avoid transmission of HIV, and other information considered appropriate by the Department. The local health department may not disclose the identity of the infected individual to his/her partners, unless the individual gives his/her consent prior to making that disclosure.

Local health departments shall not retain reports, records and data related to PCRS on any individual for more than 90 days after the date of receipt of the information, or for the period of time established by rule of the Department.

Duty to Warn (As a Component of PCRS)

(MCL 335.5131; Public Act 488 of 1988, as amended by Act 86 of 1992)

Physicians and local health officers have an affirmative duty to notify KNOWN sexual or needle-sharing contacts of HIV infected patients about their potential exposure to HIV. Physicians and local health officers may, however, discharge this duty to PCRS staff at local health departments. If a referral is made to the local health department, the name of the known contact, as well as the contact's address and telephone number (if known), should be provided to the local health department for follow-up. Physicians and local health officers may also refer the HIV-infected client to the local health department for assistance with PCRS.

Persons making the notification to the contact may not disclose the identity of the patient to the contact, unless the HIV infected individual has provided written consent for this disclosure, and if the release of the patient's name is reasonably necessary to prevent a foreseeable risk of HIV transmission.

Health Threat to Others

(MCL 333.5201, 333.5203, 333.5205, 333.5207 and 333.5210; Public Act 490 of 1988, as amended by Act 57 of 1997, and Act 37 of 2000)

Michigan law states that it is a felony for an HIV-infected individual, who knows he/she is infected, to engage in sexual penetration without first informing the other person of the HIV infection. "Sexual penetration" is defined as sexual intercourse, cunnilingus, fellatio, anal intercourse, or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body, but emission of semen is not required. The statute is silent about the use of barriers in this regard.

Michigan statutes also provide that an individual who is a "health threat to others" may be arrested and placed in custody in order to prevent transmission of HIV or any other serious communicable disease. The "health threat to others" law applies to anyone who is known to be infected with an infectious agent or is reasonably believed to harbor an infectious agent, and by the individual's conduct, has displayed an unwillingness or an inability to conduct himself/herself in such a manner as to not place others at risk of transmission. This includes past or present behavior evidencing an intent to transmit the infectious agent, showing a disregard of whether transmission may occur, or lying about his/her condition before engaging in behavior that could transmit the infectious agent.

If an individual is considered a "health threat to others," a report should be made to the local health department. The health department will make a determination of whether the individual is a health threat to others and, if so, will issue a warning notice to the individual requiring that he/she: 1) stop his/her activity; 2) cooperate with the health department; and 3) if necessary, take part in testing, education or counseling. The notice will also state that a failure to comply with the warning could result in a circuit court hearing, which could result in detention.

If the individual fails to cooperate or continues the activity, the health department may petition the circuit court for relief, which may include supervised detention for up to six months. In an emergency situation, the local health department or police may immediately take the individual into temporary custody (without the need for a prior warning), in order to prevent transmission while seeking a court hearing.

Prenatal Testing Requirement

(MCL 333.5123; Public Act 491 of 1988, as amended by Act 200 of 1994)

Physicians are required to test pregnant women for HIV or an antibody to HIV, hepatitis B, and sexually transmitted disease, unless the woman refuses consent or the physician determines the tests are medically inadvisable.

Physicians are required to test pregnant women for HIV or an antibody to HIV, hepatitis B, and sexually transmitted disease in three instances:

- 1) At the time of a pregnant woman's initial examination;
- 2) If a pregnant woman presents at a health care facility to deliver her infant, and no record of test results is readily available, nor is there a record of the woman's refusal to test.
- 3) If the pregnant woman presents for care in the immediate postpartum period, having recently delivered an infant outside a health care facility, and there is no record of test results readily available, nor is there a record of the woman's refusal to test.

The physician is also required by Michigan law to record the client's test results and date of testing in her medical record. If testing is refused, this must be documented. If testing was not ordered by the physician, an explanation of why the tests were not ordered must be documented.

The test results and the records are not public records but are available to a local health department and to a physician who provide treatment to the woman or her infant.

Premarital Requirement

(MCL 333.5119; Public Act 491 of 1988,

as amended by Act 46 of 1990, Act 75 of 1994, and Act 209 of 2000)

Persons applying for a marriage license must receive written materials (approved or prepared by the Michigan Department of Community Health) from the county clerk regarding prenatal care, and the transmission and prevention of HIV and sexually transmitted disease. The written materials must describe the availability of testing, as well as locations where testing services funded by the Michigan Department of Community Health are available. Testing for HIV or sexually transmitted disease is NOT mandatory to receive a marriage license in Michigan. Marriage applicants, however, must sign a statement on the marriage license application that indicates that they have received the educational materials described above.

If a marriage license applicant elects to undergo HIV testing and the test result is positive, the physician, or other authorized person administering the test, shall notify both applicants of the positive test result and counsel them regarding modes of HIV transmission, the potential for HIV transmission to a fetus, and protective measures. Note: This requirement to notify both applicants applies only to HIV testing.

Testing of Donated Blood, Breast Milk, Sperm And Organs

(MCL 333.9123; Public Act 487 of 1988)

Any blood, tissue, organ, or other specimens collected for the purpose of transfusion, transplantation or use in a human body must be tested for HIV or an antibody to HIV prior to use. This also includes any self-directed or autologous donation. Under most circumstances, if the testing is positive for HIV, the blood, tissue or organ cannot be used. If, however, the blood was donated for autologous transfusion, the blood may be used, if the person responsible for the transfusion and the person receiving the blood have consented in writing to the use of the blood.

If the testing is positive for HIV or an antibody to HIV, the person who ordered and/or performed the test, is required to inform the donor of the positive test result.

If the donation is a "self-replicating" body fluid (i.e., breast milk or sperm), and the person is a regular donor, then HIV testing must be done at least every three months.

In an emergency, if there is not enough time to do HIV testing, (due to the viability of the donation and/or the condition of the person receiving the donation), the donated blood, tissue or organ may be used, if the person receiving the donation provides written consent to receive the donation, acknowledging that there was insufficient time for testing.

If the person receiving the donation is unable to provide this written consent, then family members or an authorized representative may provide substituted consent. The order of priority for substituted consent is set out in the statute as follows: spouse, adult child, either parent, adult sibling, and, finally, the patient's legal guardian. If the person receiving the donation is a minor, the parent, legal guardian, or person acting as a parent may provide the consent.

HIV Testing in State Correctional Facilities

(MCL 791.267; Public Act 510 of 1988)

This statute requires that all persons admitted to state correctional facilities have an HIV test, unless the person has previously undergone an HIV test within the last three months. The statute also permits segregation of HIV infected prisoners when disciplined for high risk behavior; allows testing of prisoners upon employee exposures to the blood or body fluid of prisoners, (if the exposure could transmit HIV); allows for free HIV testing of employees upon request; addresses provision of equipment to implement universal precautions; and mandates seroprevalence studies of prisoners, HIV counseling of tested prisoners, and provision of AIDS education.

Court-ordered Testing For Sex-related Crimes

(MCL 333.5129, Public Act 471 of 1988, as amended by Act 1 of 1994, Act 72 of 1994, Act 200 of 1994, and Act 253 of 1995)

Testing for HIV, hepatitis B, and sexually transmitted disease MAY be ordered when a person is arrested and charged with prostitution, or for solicitation for a prostitute's services.

If a person is arrested and charged for intravenous use of illegal drugs, prostitution, solicitation of prostitution, or gross indecency, the judge or magistrate shall provide written materials to the charged person regarding sexually transmitted disease and HIV transmission, and shall recommend that the individual receive counseling and additional information. Counseling, however, is voluntary on the part of the individual charged.

If a person is bound over for trial for a sex-related crime, and the court determines that there is reason to believe that the criminal act involved sexual penetration or exposure to the defendant's body fluid, the court SHALL order the defendant to be examined or tested for HIV, hepatitis B and sexually-transmitted disease. The court SHALL also order the defendant to receive counseling regarding venereal disease, hepatitis B infection, and HIV and AIDS including, at a minimum, information regarding treatment, transmission, and protective measures.

Upon conviction of a defendant or issuance of an order judging a child to be guilty

of intravenously using a controlled substance, prostitution, solicitation, or gross indecency, the court SHALL order the defendant or child to be examined or tested for venereal disease, hepatitis B, and HIV or an antibody to HIV. The court SHALL also order the defendant or child to receive counseling regarding venereal disease, hepatitis B, and HIV/AIDS including, at a minimum, information regarding treatment, transmission, and protective measures.

If the crime involved sexual penetration or exposure to the defendant's body fluids, and the defendant is convicted, the victim is entitled to be notified of the defendant's test results. If the defendant is then incarcerated, the test results are to be sent to the Department of Corrections.

Notification of Funeral Director of Presence of Infectious Disease

(MCL.333.2843b; Public Act 185 of 1986)

If, at the time of death, a physician who is required to complete the medical certification under section 2843(1)(a) has actual knowledge of the presence in the deceased individual of an infectious agent, including acquired immunodeficiency syndrome-related virus, the physician shall notify the funeral director or the funeral director's authorized agent of the appropriate infection control precautions to be taken. The funeral director may not refuse to handle the patient's body based upon information provided in the notification.

Rules promulgated to implement this law define "infectious agent." Among the list of infectious agents are HIV and AIDS.

Notification of First Responders And Requests For HIV Testing

(MCL 333.20191; Public Act 490 of 1988,

as amended by Act 179 of 1990, and Act 419 of 1994)

A "first responder" is defined as a police officer, fire fighter, medical first responder, emergency medical technician, emergency medical technician specialist, a paramedic, an emergency medical services instructor-coordinator, or any individual assisting an emergency patient (a "good Samaritan").

There are two ways in which Michigan law allows first responders to be informed about an emergency patient whom they have assisted, and who has tested positive for an infectious agent. Both of these situations pertain only to potential exposures that have occurred while the first responder is assisting an emergency patient PRIOR TO TRANSPORT to a health facility, or DURING TRANSPORT to a health facility.

1. If, as part of the care and treatment that the patient receives at a health facility, the patient tests POSITIVE for an infectious agent, the health

facility must notify the first responder(s) of his/her potential exposure to an infectious agent and the approximate exposure date; and inform the first responder of the appropriate infection control precautions to be taken. This notification must take place within two days after the test results are obtained.

If the emergency patient was tested for HIV or hepatitis B, the health facility must notify any potentially exposed first responder of both positive and negative test results and encourage him/her to be tested for HIV or hepatitis B, or both, and be counseled regarding both infectious agents. If the test results indicate that the emergency patient is positive for HIV, the health facility shall not reveal that the infectious agent is HIV unless the health facility has received a written request for notification from the first responder.

If the facility does not know the potentially exposed first responder's name, the facility must notify that person's employer (i.e, the police department, fire department or EMS company). If that is also unknown, the facility must notify the Medical Control Authority or the chief elected official with jurisdiction over the transporting vehicle.

2. If the first responder assists an emergency patient who is subsequently transported to a health facility, or is involved in the actual transport of an emergency patient to a health facility, AND sustains a percutaneous, mucous membrane, or open wound exposure to the blood or body fluids of the emergency patient, the first responder may initiate a request that the emergency patient be tested for HIV and/or hepatitis B. (Note that hepatitis C testing is currently not included in the law.)

This request for testing must be in writing on a form developed by, or similar to the one developed by the Michigan Department of Community Health (Form J427 or subsequent revisions). The form shall not contain information that would identify the emergency patient by name. The request for testing must be received by the facility prior to the patient's discharge. (If the patient has already been discharged prior to receiving the request, the facility has no duty to notify the patient, and must not do any testing without the patient's informed consent.) The facility shall accept the first responder's description of exposure to the source patient, unless the facility has reasonable cause to believe otherwise.

Michigan statute (MCL 3353.5133) allows testing of the emergency patient without informed consent if the patient is informed in writing upon admission to the health facility that an HIV test may be performed if there is a health facility employee or first responder exposure to his/her blood or

body fluids. Note that the first responder is responsible for payment of testing unless the costs are covered by the first responder's employer or their own health care benefits plan.

Blood and Body Fluid Exposures to Arrestees, Correctional Facility Inmates, Parolees, or Probationers

(MCL 333.5204 - 5207; Public Act 57 of 1997, as amended by Act 37 of 2000)

If a police officer, fire fighter, local correctional officer or other county employee, court employee or other person making a lawful arrest, has an exposure to the blood or body fluids of an arrestee, inmate, parolee, or probationer, the former may request that the person be tested for HIV, hepatitis B, and/or hepatitis C. A prerequisite is that the police officer, fire fighter, etc., must have previously received training on the transmission of bloodborne diseases. If a police officer, fire fighter, local correctional officer or other county employee, court employee, or a person making a lawful arrest believes that an exposure did occur, he/she must make the request in writing (MDCH form AP-116 or subsequent revisions) to his/her employer within 72 hours of the exposure. The employer of the exposed individual shall accept as fact the employee's description of the exposure.

The employer is responsible for arranging the testing at the local health department or other designated health care facility. The test subject must provide consent to be tested. If the test subject, however, does not agree to be tested, the employee of the requesting individual may file a petition in circuit court. In the latter situation, the court will first hear testimony from the employee. If the court finds that an exposure occurred, the court may issue an order requiring the test subject to undergo testing for HIV, hepatitis B, hepatitis C, or all three infections. The person requesting the testing is responsible for payment of the cost of testing unless the charges are paid by the individual's employer or their health care benefits plan.

If the court issues an order for commitment (confinement) of the test subject to a health facility, a review panel must first review the need for commitment. The commitment review panel shall consist of three physicians appointed by the court (one of whom may be selected by the test subject). Not less than two of the physicians shall have training and experience in the diagnosis and treatment of serious communicable diseases and infections. It is the responsibility of the review panel to recommend either commitment or an alternative to commitment.

The individual committed to a health facility under this section may appeal to the circuit court for a commitment review panel recommendation as to whether or not the individual's commitment may be terminated. The individual may also appeal to the court of appeals for a hearing regarding any order given by the circuit court.

ANTI-DISCRIMINATION LAWS REGARDING HIV INFECTION

There are a number of federal and state statutes that prohibit discrimination against someone who is HIV-infected, or believed to be HIV-infected. These include Section 504 of the Federal Rehabilitation Act of 1973, the Fair Housing Amendments Act of 1988, the Americans with Disabilities Act (ADA) of 1990, and the Michigan Persons with Disabilities Civil Rights Act of 1976.

These statutes provide that a person who is HIV-infected, or is believed to be HIV-infected, must be treated in a non-discriminatory manner as any non-HIV-infected person. Physicians and other health care workers cannot refuse to treat an HIV-infected person merely based on the patient's HIV status, or because HIV infection may be perceived to increase health risks to the physician or health care worker. A physician, however, may refer an HIV-infected person to a specialist or physician experienced in treating such patients, if such medical care and treatment are needed by the patient.

FORMS ASSOCIATED WITH HIV LEGISLATION

Mandatory Counseling and Informed Consent

Important Health Information -- DCH-0675 (previously HP-143)

Available from: Local Health Department

or

Michigan Department of Community Health Division of Health, Wellness and Disease Control

Phone: 517/241-5900

HIV/AIDS Case Reporting

Adult HIV/AIDS Confidential Care Report (CDC 50.42A) Pediatric HIV/AIDS Confidential Case Report (CDC 50.42B)

Available from: Local Health Department

or

Michigan Department of Community Health

Division of Communicable Disease & Immunization

Phone: 517/335-8165 (Lansing)

313/876-0353 (Southeast Michigan)

Partner Counseling & Referral Services (PCRS) – Formerly Partner Notification

Partner Notification Investigation Form (HP -123, or subsequent revisions) Confidential Request for Partner Notification Assistance (HP-139, or subsequent revisions)

PCRS Logs A and B

Available from: Local Health Department

or

Michigan Department of Community Health Division of Health, Wellness and Disease Control

Phone: 517/241-5900 (Lansing) or 313/256-2082 (Detroit)

Premarital Requirement

"Learn the Facts: Because You Care about each Other"

Distributed by: County Clerk Offices

Available from: Michigan Department of Community Health

Division of Health, Wellness and Disease Control

Phone: 517/241-5900

First Responder Notification and Requests for Testing of Emergency Patient

Request for HIV/Hepatitis B Testing of Emergency Patient (J427, or subsequent

revisions)

Notice of Health Threat to First Responder (J425, or subsequent revisions)

Available from: Michigan Department of Community Health

Division of Health, Wellness and Disease Control

Phone: 517/241-5900

Felon/Arrestee Exposures and Requests for Testing

Officer/Employee Request Form for HIV/Hepatitis B/Hepatitis C Testing of

Felon/Arrestee (AP-116, or subsequent revisions)

Available from: Michigan Department of Community Health

Division of Health, Wellness and Disease Control

Phone: 517/241-5900

This booklet has been prepared by the Michigan Department of Community Health Division of Health, Wellness and Disease Control

Revised January 2006

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For Additional Information about HIV, contact:

Statewide Toll-free Hotline
1-800-872-AIDS

or

Michigan Department of Community Health
Division of Health, Wellness and Disease Control
(517) 241-5900

