



PROVIDER INFORMATION

Frequently Asked Questions Regarding HIV Testing in Arizona

1. What has changed regarding HIV testing in Arizona since the new law was passed in September 2008?

*In September 2008, the new HIV consent law in Arizona became effective, making it easier for HIV testing to be incorporated into routine healthcare. The new law, contained in Arizona Revised Statute (ARS) § 36-663, significantly streamlines the HIV testing process by **removing** the following previous requirements:*

1. *A written consent form*
2. *Formal pre- or post-test counseling*
3. *Specific documentation of oral consent for HIV testing*

The statute, available below, requires that oral or written consent information, which includes information on HIV infection and the meaning of a positive HIV test, be provided to the patient. Patients must also be allowed to ask questions and decline testing.

Arizona Revised Statute § 36-663. [HIV-related testing; restrictions; exceptions](#)

A. Except as otherwise specifically authorized or required by this state or by federal law, before an HIV-related test is ordered by a health care provider, the health care provider shall ensure that oral or written informed consent information is provided to the subject of the test who has capacity to consent or, if the subject lacks capacity to consent, of a person authorized pursuant to law to consent to health care for that person. For the purposes of this subsection, "informed consent information" means information that explains HIV infection and the meaning of a positive test result and that indicates that the patient may ask questions and decline testing.

2. Can HIV testing now be performed on all patients entering healthcare without written consent?

Yes, provided that patients are provided with the information outlined in the statute (in oral or written format) as well as being informed of their right to ask questions and to decline testing.

3. What information is required to be given to the patient at the time of HIV testing?

In addition to being informed of their right to ask questions and decline testing, providers should ensure that patients receive oral or written consent information that includes:

1. *Information that explains HIV infection*
2. *Information on the meaning of a positive HIV test result*

Consent information does not have to be in the form of a pamphlet. It may be a poster in the waiting room or added to the general medical consent used in the local medical facility. All providers should check with their legal and risk management staff to determine which option is best for their individual situation.

4. Is documentation of the provision of oral or written information about HIV and HIV testing required by statute to be included in the medical chart?

No, provider documentation that patients have received this information is not required by the statute. In addition, patients are not required to sign a specific consent form for HIV testing or sign to acknowledge receipt of HIV information. Although provider documentation is not required by statute, all providers should check with their legal and risk management staff to determine what documentation is required by the facility.

5. Are providers required to inform patients that positive HIV test information will be reported to the public health department as required by statute?

No, this information is not required as part of the revised statute.

6. Can HIV testing be incorporated into the overall general medical consent that is signed by each patient prior to initiating medical care?

Yes, HIV informed consent information can be included in the general medical consent. Patients must be aware of the right to ask questions and to decline the test. All providers should check with their legal and risk management staff to determine which method of providing information about HIV and HIV testing is best for their individual situation.

7. In the event that information cannot be given to a patient, due to severe illness or injury, can HIV testing still be performed based on medical emergency or necessity?

The Arizona Revised Statute § 36-663 has not changed regarding:

- 1. HIV testing in the event of a medical emergency*
- 2. HIV testing where a patient lacks capacity to consent for general medical care*

Both situations are still exempted from the requirement for the provision of informed consent information. In either case, if a person who is authorized to provide general medical consent is available, this person should be provided with information about HIV and HIV testing on the patient's behalf.

8. Where can providers get information about HIV and HIV testing that can be given to patients prior to HIV testing?

Information on HIV and HIV testing that can be given to patients is available on the Centers for Disease Control and Prevention (CDC) website through the following links:

www.cdc.gov/hiv

<http://www.cdc.gov/hiv/topics/testing/qa.htm>

<http://www.cdc.gov/hiv/topics/basic/index.htm#hiv>

<http://www.cdc.gov/hiv/topics/basic/index.htm#transmission>

9. Where can providers get more information or answers to additional questions about HIV and HIV testing in healthcare settings?

Information and recommendations related to HIV testing in healthcare settings is available on the Centers for Disease Control and Prevention (CDC) website through the following links:

http://www.cdc.gov/hiv/topics/testing/resources/qa/qa_professional.htm

<http://www.cdc.gov/hiv/topics/testing/healthcare/index.htm>

<http://www.cdc.gov/mmwr/preview/mmwrhtml/rr5514a1.htm>

In addition, the Arizona AIDS Education Training Center can answer questions related to HIV testing and the new statute in Arizona and offers providers training opportunities that include information on HIV testing. The Arizona AIDS Education Training Center can be contacted through:

Carol Galper (cgalper@u.arizona.edu)

Phone (520) 626-2696

<http://www.fcm.arizona.edu/index.cfm/1,173,0,0,html/Arizona-AIDS-Education-and-Training-Center>