New Florida Laws for HIV Testing

FLORIDA HOSPITAL ASSOCIATION

AUGUST 18, 2015
Welcome

About today’s program…

► The program is being recorded.

► A link to the recorded program and related materials will be emailed to all registered participants.

► Questions:
  ► Thank you for the questions submitted in advance of the program.
  ► Questions can be submitted during the program using the “text chat” option on your screen. These questions will be addressed in the materials distributed along with the link to the recorded program.
Purpose of the Program

- Review changes to Florida Statute 381.004 related to HIV Testing
- House Bill 321
  - Sponsored by Rep Bryan Avila and Sen Geraldine Thompson
- Intent of the Legislation
  - Normalize HIV Testing and address CDC recommendations published in 2006
- Legislation became effective on July 1, 2015
HIV/AIDS remain a leading cause of death in the U.S.

CDC recommends HIV screening by all healthcare providers, unless the patient declines the test.

- Recognize HIV positivity in order to promote prevention and treatment options.

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

NOTE: There is no requirement for hospitals to institute routine HIV screening programs.
Today’s program...

- Bill Bell, General Counsel, Florida Hospital Association
  
  Review the changes to Florida Statute related to HIV testing.

- Marlene LaLota, Administrator
  Florida Department of Health
  
  Provide an update to the DOH HIV Testing Rules.

- Patrick McGovern, Director of Government Affairs
  Gilead Sciences, Inc.
  
  Discuss the potential public health benefits associated with voluntary routine HIV testing programs.
Review of changes to FS 381.004

BILL BELL, GENERAL COUNSEL
FLORIDA HOSPITAL ASSOCIATION
HB 321 – Major Changes in “Health Care Setting”

- Consent
- Significant Exposure
“Health care setting” means a setting devoted to the diagnosis and care of persons or the provision of medical services to persons.

Examples: hospitals, primary care settings, clinics, blood banks.

(Non-health care setting is where there is no medical treatment and it conducts HIV testing for sole purpose of identifying HIV infection. Examples are outreach settings and mobile vans.)
Consent To Test

**Old law:** In general, no HIV test without first obtaining person’s informed consent after explaining right to confidential treatment of information concerning individual and results of test, reporting of test results, and availability of anonymous testing sites.

**New law:** 381.004(2)(a)1. In a health care setting, a person to be tested shall be notified orally or in writing that the test is planned. A person who has signed a general consent form for medical care is not required to sign or otherwise provide a separate consent for an HIV test. If the person declines the test, it shall be documented in the medical record.
381.004(2)(h) Requirements to notify patient in advance of test and obtain consent do not apply in several situations

(10) & (11) Significant Exposures

- During employment or within scope of practice, or providing emergency medical assistance.

- Significant Exposure – Exposure to blood or body fluids through needlestick, instruments, or sharps; exposure to mucous membranes to visible blood or body fluids to which universal precautions apply; exposure to skin to visible blood or body fluids.
Exceptions To Consent

(Continued)
(10) & (11) Significant Exposures

- Documented by medical personnel under supervision of physician and recorded only in personnel record.
- Costs of HIV test borne by medical personnel or employer.
- Medical personnel must be tested or provide results of HIV test taken within 6 months before exposure.
- Maintain confidentiality of information received and person tested.
- If source of exposure is not available may seek court order.
Most of Old Law Still In Place

- Existing test results notification to patient requirements still in law.

- Existing confidentiality provisions still in law.

- Both before and now, hospitals not required to register with DOH for HIV testing.
FDOH HIV Testing Rule - Update

MARLENE LALOTA
FLORIDA DEPARTMENT OF HEALTH
Changes to Florida’s HIV Testing Law (381.004, F.S.)

- CS/HB 321 passed by Legislature in May; signed by Governor Scott in June and became effective July 1, 2015
- Amends 381.004, F.S. removing the requirement for informed consent prior to HIV testing in health care settings
- Patients must be notified that test will be performed and that the patient has the right to decline testing (opt-out)
- Notification can be oral or in writing
- Refusal must be noted in client’s medical record
- No change in law for testing in non-health care settings
- Rule and model protocols currently being updated
Routine HIV Screening – Public Health Benefits

PATRICK MCGOVERN, DIRECTOR OF GOVT AFFAIRS
GILEAD SCIENCES INC.
Screening for Public Health

- CDC estimates that up to 40% of new diagnoses are attributable to the approximately 16% undiagnosed

- More than 1/3 of these transmissions occur in the acute phase of seroconversion when viral loads are highest

- Lab based, 4th generation HIV test technologies can detect acute infection and reduce the likelihood of additional transmissions

- Routine screening diagnoses those might not seek testing especially women and heterosexual men

- At the intersection of health and public health, hospitals can play a critical public health role
Not Case Finding: based upon the presence of risk factors

No Longer Merely Diagnostic: testing for individuals with clinical signs or symptoms

Screening: tests used in a population to detect a disease in individuals without signs or symptoms

Intent is to identify a disease in a community early

Opt-In: Informed Consent & full documentation

Opt Out: General consent for care with notification, document decline only
CDC Compliant Case Studies

Providence Hospital, Washington, DC
- Consent integrated into hospital consent to care
- 18,000 annual tests; over 600% increase from baseline
- 37% testing penetration rate
- Seropositivity 2.25%; 400 positives identified; 15% new

Grady Health System, Atlanta
- Consent integrated into hospital consent to care
- 17,000 year one tests; 15,000 in 3.5 years prior
- 44,000 tested in past 24 mos.; 348 new diagnoses (0.79%); 1.3% overall positivity
- New diagnoses: 26% female; 16% <24 years old; 20% >50 years old
Who We Are Reaching

- Heterosexual Female, Late 50’s
  - Presents from LTCF with fevers
  - CD4 at diagnosis: 5
  - Deceased 1 month post diagnosis
  - No history of testing

- Male Age 38
  - Presents with diarrhea
  - CD4 at diagnosis: 14
  - 15 previous visits to primary care, subspecialists and ER since 2007
  - Current status: engaged in care

- Female, 23 years old
  - Cellulitis Complaint
  - CD4 at diagnosis: 442
  - 16 previous visits since last HIV test, 8 in ED
  - History of STDs

- Heterosexual, Black male
  - Early 40s in care 12 years for heart disease, hypertension and asthma
  - First ever HIV test
  - Patient denied risk exposure
  - CD4 count at diagnosis: 11
  - Patient’s fiancée tested negative
Thank you for your participation

For additional information contact:
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