HIV/AIDS POLICY GUIDELINE

Testing for HIV

HIV/AIDS and STD Directorate
Department of Health

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<table>
<thead>
<tr>
<th>CONTENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Background</strong></td>
</tr>
<tr>
<td><strong>Guidelines</strong></td>
</tr>
<tr>
<td>Circumstances under which HIV testing may be conducted</td>
</tr>
<tr>
<td>Informed consent, pre-test counselling and post-test counselling</td>
</tr>
<tr>
<td>Interpretation</td>
</tr>
<tr>
<td>Definitions</td>
</tr>
</tbody>
</table>
Testing for HIV infection presents serious medical, legal, ethical, economic and psychological implications in the health care setting. Because HIV infection is a life-threatening condition, reasonable persons and health care workers will attach significance to the outcome of an HIV test, especially a positive diagnosis. For these reasons, and in accordance with the constitutional guarantees of freedom and security of the person, and the right to privacy and dignity, the following HIV testing policy shall constitute national policy. This policy applies to persons who are able to give consent, as well as to those legally entitled to give proxy consent to HIV testing in terms of the law.
Circumstances under which HIV testing may be conducted

Testing for human immuno-deficiency (HIV) virus may be done only in the following circumstances:

☐ upon individual request, for diagnostic and treatment purposes, with the informed consent of that individual;

☐ on the recommendation of a medical doctor that such testing is clinically indicated, with the informed consent of the individual;

☐ as part of HIV testing for research purposes, with the informed consent of the individual and in accordance with national legal and ethical provisions regarding research;

☐ as part of screening blood donations, with the informed consent of the individual and in accordance with statutory provisions regarding blood donations;

☐ as part of unlinked and anonymous testing for epidemiological purposes undertaken by the national, provincial or local health authority or an agency authorised by any of these bodies, without informed consent, provided that HIV testing for epidemiological purposes is carried out in accordance with national legal and ethical provisions regarding such testing;

☐ where an existing blood sample is available, and an emergency situation necessitates testing the source patient’s blood (e.g. when a health care worker has sustained a risk-bearing accident such as a needle-stick injury), HIV testing may be undertaken without informed consent but only after
informing the source patient that the test will be performed, and
providing for the protection of privacy. The information regarding the
result may be disclosed to the health care worker concerned but must
otherwise remain confidential and may only be disclosed to the source
patient with his or her informed consent; or

☐ where statutory provision or other legal authorisation exists for testing
without informed consent.

Routine testing of a person for HIV infection for the perceived purpose of
protecting a health care worker from infection is impermissible regardless of
consent.

HIV testing for an employee in the workplace is prohibited unless justified
by an order of the Labour Court, in accordance with the Employment Equity
Act No. 55 of 1998, section 7(2).

Proxy consent may be given where the individual is unable to give
consent.

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**Informed consent, pre-test counselling and post-test counselling**

Testing for HIV infection at all health care facilities will be carried out with
informed consent, which includes pre-test counselling. The information
regarding the result of the test must remain fully confidential, and may be
disclosed in the absence of an overriding legal or ethical duty only with the
individual’s fully informed consent.

In the context of HIV/AIDS, testing with informed consent means that the
individual has been made aware of, and understands the implications of the
test. Consent in this context means the giving of express agreement to HIV
testing in a situation devoid of coercion, in which the individual should feel
equally free to grant or withhold consent. Written consent should be
obtained where possible.

Pre-test counselling should occur before an HIV test is undertaken. It
should be a confidential dialogue with a suitably qualified person, such as a
doctor, nurse or trained HIV counsellor, undertaken as a means of passing on
information and gaining consent.

Posters, pamphlets and other media (including videos) may be used in
making information on HIV/AIDS available, but cannot be regarded as a
general substitute for pre-test counselling.

A doctor, nurse, or trained HIV counsellor should accept, after personal
consultation, an individual’s decision to refuse pre-test counselling and HIV
testing. Psychological competence in understanding and dealing with the
diagnosis of a life-threatening condition, rather than educational or social
status, should be the yardstick for this decision. Such a decision should only
be made on a case-by-case basis and should be recorded in writing.

A doctor, nurse or trained HIV counsellor should also ensure that post-test
counselling takes place as part of a process of informing an individual of an
HIV test result.

Where a health care facility lacks the capacity to provide a pre-test or post-
test counselling service, a referral to a counselling agency or another facility
with the capacity to provide counselling should be arranged before an HIV
test is performed, and when an HIV test result is given.

Where a patient presents with recognisable HIV/AIDS specific symptoms
but no facilities exist for pre-test counselling, then treatment for the specific
symptom or illness should proceed without an HIV test. Referral for pre-test
counselling with a view to a possible HIV test must occur at the earliest
opportunity.
In all instances, this policy shall be interpreted to ensure respect for rights to privacy, dignity and autonomy.

**DEFINITIONS**

**AIDS:** Acquired Immune-Deficiency Syndrome (AIDS) is the late and most severe stage of HIV disease and is characterised by signs and symptoms of severe immune-deficiency, where the body loses the ability to fight against infections because the immune system is weakened.

**Epidemiological purposes:** Epidemiology is the study of the distribution of diseases in society, and the application of this information for the prevention and control of disease. HIV testing for epidemiological purposes is therefore HIV testing in order to obtain information regarding the distribution of HIV infection within society.

**HIV:** The Human Immuno-Deficiency Virus (HIV) is the virus that causes AIDS.

**HIV testing:** HIV testing is any form of medical testing to determine the HIV status of a person.

**Informed consent:** Informed consent to an HIV test means that the individual understands and agrees to an HIV test. Informed consent implies that the individual understands what the test is, why it is necessary and the benefits, risks, alternatives and possible social implications of the outcome.

**Post-test counselling:** Post-test counselling is the counselling provided when an individual receives his or her HIV test result. Post-test counselling
involves one or more sessions (ideally at least two) and should include discussions on:

- feedback and understanding of results;
- if the result is negative: strategies for risk reduction and possibility of infection in the 'window period';
- if the result is positive: immediate emotional reaction and concerns;
- personal, family and social implications;
- difficulties a client may foresee and possible coping strategies;
- who the client wants to share the results with;
- immediate needs and social support identification;
- follow-up supportive counselling; and
- follow-up medical care.

**Pre-test counselling:** Pre-test counselling is that counselling given to an individual before an HIV test, to make sure that the individual has sufficient information to make an informed decision about having an HIV test. Pre-test counselling should include discussions on:

- what an HIV test is, the purpose of the test;
- the meaning of a positive result, including the practical implications such as medical treatment and care, sexual relations, psycho-social implications, work etc;
- assessment of personal risk of hiv infection;
- safer sex and strategies to reduce risk;
- coping with an hiv positive test result, including who to tell and identifying needs and support services; and
- an opportunity for decision making about taking the HIV test.

**Proxy consent:** Proxy consent is consent by a person legally entitled to grant consent on behalf of another individual. For example, a parent or guardian of a child below the age of consent to medical treatment may give proxy consent to HIV testing of the child.