

Impact of the 2006 CDC HIV testing recommendations on state HIV testing laws

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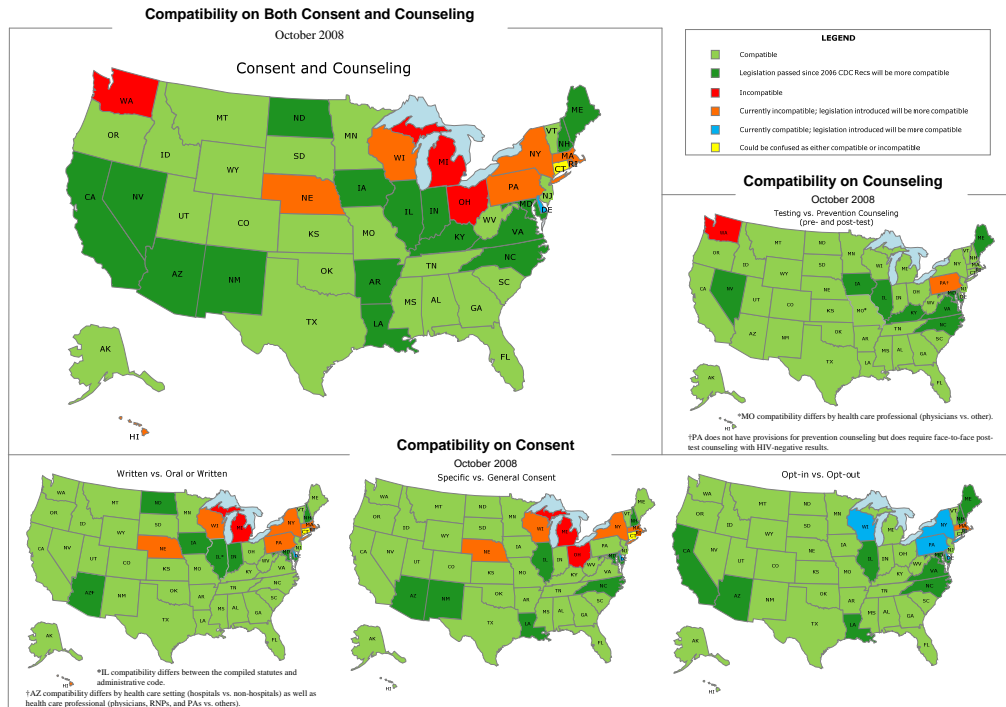
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Introduction:

- HIV testing laws are under the jurisdiction of each state.
- HIV laws are also influenced by the 2006 CDC recommendations (2006 Revised recommendations for HIV testing of adults, adolescents, and pregnant women in health-care settings. *MMWR* 2006; 55 No. RR-14).
- State laws and national recommendations can be disparate, presenting conflicting information to clinicians.
- The *Compendium of State HIV Testing Laws* at www.ncc.ucsf.edu is a living, online document that serves as a national resource to help clinicians understand their state HIV testing laws and the CDC recommendations.
- This poster presents the current status of state HIV testing laws in relation to the 2006 CDC recommendations.

Methods:

- Compendium* state profiles were summarized to describe current HIV testing laws pertinent for clinicians.
 - Information sources: www.lexisnexis.com, www.qurtmischer.org, www.kaisernetwork.org, state legislative websites, state public health officers and HIV directors, etc.
- Consent and counseling laws were compared before and after the issuance of the 2006 CDC recommendations.
 - Statutory laws and administrative code pertaining to clinicians, routine testing/screening, and generalized healthcare settings were included.
 - Common law and laws pertaining to specific populations (e.g., minors), settings (e.g., corrections institutions, psychiatric facilities, long-term care facilities, testing and counseling sites, and substance abuse centers), situations (e.g., anonymous testing, testing for diagnosis and treatment, emergency situations, occupational exposures), and healthcare professionals (e.g., chiropractors, counselors, and midwives) were excluded unless otherwise noted.
- Compatibility was defined as not conflicting with CDC recommendations.
 - Key terms used (e.g., opt-out and HIV prevention counseling) were defined by the 2006 CDC Recommendations.
 - Consent statutes outlining patient-initiated testing were considered "opt-in" unless otherwise specified.
- Laws were assessed for compatibility with the CDC recommendations, based on the following sub-parameters:
 - Specific consent vs. general consent;
 - Written consent vs. either oral or written consent;
 - Opt-in consent vs. opt-out consent
 - Testing vs. prevention counseling (pre- and post-test counseling).



Results:

- Compatible or Incompatible with CDC 2006 Recommendations**
 - Compatible
 - 40 states (including Washington, D.C.) are compatible on all parameters of consent and counseling.
 - 10 states specify opt-out (e.g., "opt-out," "right to decline," "opportunity to refuse," "in accordance with CDC recommendations").
 - 40 do not specify either opt-in or opt-out.
 - 1 requires opt-in testing.
 - Incompatible
 - 10 states are incompatible on at least one sub-parameter of consent and/or counseling.
- Legislation enacted or pending**

Legislative Changes*	Number of States
Legislation passed since September 2006	16
Legislation pending	8

*For some states, new legislation has created an internal conflict within that state's HIV testing laws. (e.g., specifies opt-out methodology but requires written consent or has inconsistencies between state statutes and administrative code).

Compatibility	Number of States*
Compatible on all parameters	40*
Specify opt-out	9
Language does not address opt-in or opt-out	31*
Incompatible (on at least 1 parameter)	10
Specific Consent Required	7
Written Consent Required	8
Opt-in	1
Pre-test Prevention Counseling Required	2 [†]
Post-test Prevention Counseling Required (if HIV-)	0
Ambiguous	1

*Including Washington, D.C.
[†]PA does not have provisions for prevention counseling but does require face-to-face post-test counseling with HIV-negative results

Conclusions:

- The majority of states (40/51, including Washington, D.C.) have HIV testing laws that are compatible with CDC recommendations.
- Some states (10/51) have laws that directly conflict with the CDC recommendations.
- Some states have multiple HIV testing laws that are internally (within the state) inconsistent.
- The *Compendium* at www.ncc.ucsf.edu can be a valuable tool for clinicians in understanding HIV testing laws, especially as changes in state laws and national recommendations occur.

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National HIV/AIDS Clinicians' Consultation Center

*Warmline	1-800-933-3413
- National HIV Telephone Consultation Service	
- Monday - Friday, 8 a.m. - 8 p.m. EST	
*PEPline	1-888-448-4911
- National Clinicians' Post-Exposure Prophylaxis Hotline	
- 7 days a week, 24 hours a day	
*Perinatal HIV Hotline	1-888-448-8765
- National Perinatal HIV Consultation and Referral Service	
- 7 days a week, 24 hours a day	

