

AMENDATORY SECTION (Amending WSR 10-01-082, filed 12/15/09, effective 1/15/10)

**WAC 246-100-207 Human immunodeficiency virus (HIV) testing--  
Ordering--Laboratory screening--Interpretation--Reporting.** (1)

Except for persons conducting seroprevalent studies under chapter 70.24 RCW, or ordering or prescribing an HIV test for another individual under subsections (4) and (5) of this section or under WAC 246-100-208(1), any person ordering or prescribing an HIV test for another individual, shall:

(a) Obtain the ((informed)) consent of the individual, separately or as part of the consent for a battery of other routine tests provided that the individual is specifically informed verbally or in writing that a test for HIV is included; and

(b) Offer the individual an opportunity to ask questions and decline testing; and

(c) If the HIV test is positive for or suggestive of HIV infection, provide the name of the individual and locating information to the local health officer for follow-up to provide post-test counseling as required by WAC 246-100-209.

(2) The local and state health officer or authorized representative shall periodically make efforts to inform providers in their respective jurisdiction about the September 2006 Centers for Disease Control and Prevention "*Revised Recommendations for HIV Testing of Adults, Adolescents, and Pregnant Women in Healthcare Settings.*"

(3) Health care providers may obtain a sample brochure about the September 2006 Centers for Disease Control and Prevention "*Revised Recommendations for HIV Testing of Adults, Adolescents, and Pregnant Women in Healthcare Settings*" by contacting the department's HIV prevention program at P.O. Box 47840, Olympia, WA 98504.

(4) Any person authorized to order or prescribe an HIV test for another individual may offer anonymous HIV testing without restriction.

(5) Blood banks, tissue banks, and others collecting or processing blood, sperm, tissues, or organs for transfusion/transplanting shall:

(a) Obtain or ensure informed specific consent of the individual prior to ordering or prescribing an HIV test, unless excepted under provisions in chapter 70.24 RCW;

(b) Explain that the reason for HIV testing is to prevent contamination of the blood supply, tissue, or organ bank donations;

(c) At the time of notification regarding a positive HIV test, provide or ensure at least one individual counseling session; and

(d) Inform the individual that the name of the individual testing positive for HIV infection will be confidentially reported

to the state or local health officer.

(6) Persons subject to regulation under Title 48 RCW and requesting an insured, subscriber, or potential insured or subscriber to furnish the results of an HIV test for underwriting purposes, as a condition for obtaining or renewing coverage under an insurance contract, health care service contract, or health maintenance organization agreement shall:

(a) Before obtaining a specimen to perform an HIV test, provide written information to the individual tested explaining:

- (i) What an HIV test is;
- (ii) Behaviors placing a person at risk for HIV infection;
- (iii) The purpose of HIV testing in this setting is to determine eligibility for coverage;
- (iv) The potential risks of HIV testing; and
- (v) Where to obtain HIV pretest counseling.

(b) Obtain informed specific written consent for an HIV test. The written informed consent shall include:

(i) An explanation of confidential treatment of test result reports limited to persons involved in handling or determining applications for coverage or claims for the applicant or claimant; and

(ii) That the name of the individual testing positive for HIV infection will be confidentially reported to the state or local health officer; and

(iii) At the time of notification regarding a positive HIV test, provide or ensure at least one individual counseling session.

(c) Establish procedures to inform an applicant of the following:

(i) Post-test counseling specified under WAC 246-100-209 is required if an HIV test is positive or indeterminate;

(ii) Post-test counseling is done at the time any positive or indeterminate HIV test result is given to the tested individual;

(iii) The applicant is required to designate a health care provider or health care agency to whom positive or indeterminate HIV test results are to be provided for interpretation and post-test counseling; and

(iv) When an individual applicant does not identify a designated health care provider or health care agency and the applicant's HIV test results are positive or indeterminate, the insurer, health care service contractor, or health maintenance organization shall provide the test results to the state or local health department for interpretation and post-test counseling.

(7) Laboratories and other places where HIV testing is performed must demonstrate compliance with all of the requirements in the Medical test site rules, chapter 246-338 WAC.

(8) The department laboratory quality assurance section shall accept substitutions for enzyme immunoassay (EIA) screening only as approved by the United States Food and Drug Administration (FDA) and a published list or other written FDA communication.

(9) Persons informing a tested individual of positive laboratory test results indicating HIV infection shall do so only when:

(a) The test or sequence of tests has been approved by the FDA

or the Federal Centers for Disease Control and Prevention as a confirmed positive test result; and

(b) Such information consists of relevant facts communicated in such a way that it will be readily understood by the recipient.

(10) Persons may inform a tested individual of the unconfirmed reactive results of an FDA-approved rapid HIV test provided the test result is interpreted as preliminarily positive for HIV antibodies, and the tested individual is informed that:

(a) Further testing is necessary to confirm the reactive screening test result;

(b) The meaning of reactive screening test result is explained in simple terms, avoiding technical jargon;

(c) The importance of confirmatory testing is emphasized and a return visit for confirmatory test results is scheduled; and

(d) The importance of taking precautions to prevent transmitting infection to others while awaiting results of confirmatory testing is stressed.