

MODULE 3

FLORIDA DEPARTMENT OF HEALTH

STUDY GUIDE

HIV/AIDS: 101

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CONSIDERATIONS FOR MINORS AND NON-US CITIZENS

Minors in Florida include un-emancipated children less than 18 years of age.

REGARDING PARENTAL CONSENT

The general rule that parental consent is required prior to medical diagnosis or treatment of a minor does not apply when sexually transmitted diseases such as HIV infection are involved. According to §384.30, F.S. and Rule 64D-2.004(4), F.A.C., minors are adults for the purposes of consenting to examination and treatment of sexually transmissible diseases, including HIV testing and treatment.

Indeed, Florida specifically forbids anyone conducting HIV tests from telling parents of the minor's consultation, examination or treatment for a sexually transmissible disease, such as HIV infection. This includes telling parents either directly or indirectly (such as by billing a parent or their insurer for an HIV test without the child's permission).

INFANTS AND YOUNG CHILDREN

Infants and young children are treated as unable to make an informed decision. Therefore, consent of their parents or legal guardian is required.

For older children (such as teenagers); however, the provider must make an individual judgment whether the child, as phrased in Department of Health rules, "demonstrates sufficient knowledge and maturity to make an informed judgment." In other words, the Department of Health must decide whether the child has the cognitive and emotional capacity to understand the risks and benefits of the test or treatment to which the child is being asked to consent.

PRE-TEST COUNSELING & CONSENT

Healthcare settings: Florida law requires that, when providing HIV testing in healthcare settings, staff need not provide pre-test counseling and face-to-face post-test counseling. However, an opportunity for pre- and post-test counseling must be provided.

Informed consent does not need to be in writing.

Healthcare setting is defined as any setting devoted to both the diagnosis and care of clients. Examples are clinics that are county health department (CHD), hospital emergency departments, urgent care, substance abuse treatment, primary care settings, community medical centers and correctional healthcare facilities.

Non-healthcare settings: When providing HIV testing in non-healthcare settings, staff must provide pre-test counseling, face-to-face post-test counseling.

Written informed consent is required.

Non-healthcare setting is defined as any site that conducts HIV testing for the sole purpose of identifying HIV infection and does not provide any type of medical care.