

Comparison of Michigan’s HIV Testing Requirements for Pregnant Women to Recommendations from the American College of Obstetricians and Gynecologists (ACOG) and the Centers for Disease Control (CDC)

	<u>State Perinatal HIV Testing Law</u> MICHIGAN MCLS 333.5123 (June 21, 1994)	<u>Clinical Recommendation</u> ACOG	<u>Federal Recommendation</u> CDC
Does the law follow the recommended opt-out testing approach?	Yes. Physicians and other health care professionals providing medical treatment to pregnant women are required, at the time of initial prenatal screening and examination to test for HIV, hepatitis B and syphilis, unless the woman does not consent to be tested or the physician deems the tests are medically inadvisable. (Per section 333.5123 of Michigan’s Public Health Code, Act No. 368 of the Public Acts of 1978, as amended).	Opt-out testing defined: A pregnant woman is notified that she will be tested for HIV as part of the routine battery of prenatal blood tests unless she declines. (Prenatal and Perinatal Human Immunodeficiency Virus Testing: Expanded Recommendations. Committee Opinion No. 418. Sept. 2008)	Opt-out screening means performing an HIV test after notifying the patient 1) that the test will be performed and 2) that the patient may elect to decline or defer testing. Opt-in screening means testing is offered, and the patient is required to actively give permission for testing. Michigan’s law would be more consistent with CDC recommendations if the following CDC/ACOG language were used: “Screening should occur after a woman is notified that HIV screening is recommended for all pregnant patients and that she will receive an HIV test as part of the routine panel of prenatal tests unless she declines (opt-out screening).”
Prenatal Screening <i>Universal Screening</i>	Physicians and other health care professionals providing medical treatment to pregnant women are required, at the time of initial prenatal screening and examination to test for HIV, hepatitis B and syphilis, unless the woman does not consent to be tested or the physician deems the tests are medically inadvisable.	ACOG recommends that all pregnant women be screened for HIV as early as possible in during each pregnancy after they are notified that HIV screening is recommended for all pregnant patients and that they will receive an HIV test as part of the routine panel of prenatal tests unless they decline (opt-out screening).	All pregnant women in the United States should be screened for HIV infection. Screening should occur after a woman is notified that HIV screening is recommended for all pregnant patients and that she will receive an HIV test as part of the routine panel of prenatal tests unless she declines (opt-out screening). To promote informed and timely therapeutic decisions, health-care providers should test women for HIV as early as possible during each pregnancy.

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<p><i>Pre-test Counseling</i></p>	<p>Pursuant to MCL 333.5133, all patients must be provided with information sufficient to obtain informed consent for and to understand the meaning of results of an HIV test; however, risk assessment and risk reduction counseling (i.e., “prevention counseling”) prior to HIV testing is <i>not</i> required. Patients must be provided with (1) an explanation of the test, (2) an explanation of the rights of the test subject, (3) designation of the person(s) to whom test results may be disclosed, and (4) an opportunity to ask questions.</p> <p>State Key Message Recommendations for Systemizing Perinatal HIV Testing also state that pregnant women should receive appropriate health education regarding prevention, transmission, access to clinical care, counseling and support services for HIV, hepatitis B and syphilis as a routine part of prenatal care. Additionally, women who test positive for HIV should receive education on HIV transmission through breastfeeding and be advised not to breastfeed.</p>	<p>ACOG recommends that ob-gyns include counseling as a routine part of care, but not as a prerequisite to testing. The use of patient notification gives pregnant women the opportunity to decline to be tested but eliminates the obligation to provide extensive pre-test counseling. Care providers have the responsibility for the details of how the notification would occur.</p> <p>ACOG’s patient education materials on HIV and pregnancy are available in English and Spanish. The average readability level is grade 6-8.</p>	<p>Pregnant women should receive oral or written information that includes an explanation of HIV infection, a description of interventions that can reduce HIV transmission from mother to infant, and the meanings of positive and negative test results and should be offered an opportunity to ask questions and to decline testing.</p>

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<i>Separate Informed Consent</i>	No. MCL 333.5133, amended with changes effective January 1, 2011, states that informed consent for HIV testing may be written or verbal. Medical providers must document a patient's consent, either by patient signed consent or medical record documentation of patient's verbal consent. Consent for HIV testing may be incorporated into consent for general medical care; A separate consent form is <i>not</i> required.	ACOG recommends that prenatal HIV testing be universal, routine, and with no requirement for specific consent. Universal routine testing with patient notification is not mandatory testing; the pregnant patient always retains the right to decline the test (or opt-out).	No additional process or written documentation of informed consent beyond what is required for other routine prenatal tests should be required for HIV testing. Consent for HIV screening should be incorporated into the patient's general informed consent for medical care on the same basis as are other screening or diagnostic tests; a separate consent form for HIV testing is not recommended.
<i>Refusal of Testing</i>	The pregnant patient has the right to refuse HIV testing.	The pregnant patient always retains the right to decline the test (or opt-out). See above.	HIV testing must be voluntary and free from coercion. No woman should be tested without her knowledge.
<i>Medical Record Documentation</i>	MCL 333.5123 states that the physician or other individual otherwise authorized by law to provide medical treatment to a pregnant woman shall make and retain a record showing the date the tests were ordered and the results of the tests. If the test were not ordered by the physician or other person, the record shall contain an explanation of why the tests were not ordered. MDCH guidelines state that testing, refusal to test or accept treatment, or if the tests were not performed, should be documented in the woman's medical record. All results and treatment should be recorded in both the mom and the baby's medical record, along with the date of testing, refusal, or result.	ACOG recommends that if a pregnant woman declines HIV testing, this should be noted in the medical record (but does not require that the refusal be in writing or signed by the patient).	If a patient declines an HIV test, this decision should be documented in the medical record. Providers should discuss and address reasons for declining an HIV test (e.g., lack of perceived risk; fear of the disease; and concerns regarding partner violence or potential stigma or discrimination). Certain women will continue to decline testing, and their decisions should be respected and documented in the medical record.

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Repeat Testing in Third Trimester	MCLS 333.5123 does not address third trimester testing. MDCH guidelines (revised August 2010) highly recommend testing all pregnant women at 26-28 gestation, regardless of perceived risk and/or previous test result. For women known to be at high risk ¹ for HIV infection, guidelines recommend retesting at 26-28 weeks gestation, and again at 36 weeks gestation or at delivery, regardless of previous test results.	ACOG recommends repeating an HIV test in the 3 rd trimester for women in areas with high HIV prevalence and women known to be at high risk for HIV infection and recommending 3 rd trimester HIV testing to women who declined testing earlier in the their pregnancy.	A second HIV test during the third trimester, preferably <36 weeks of gestation, is cost-effective even in areas of low HIV prevalence and may be considered for all pregnant women. A second HIV test during the third trimester is recommended for women who meet one or more of CDC outlined criteria ² . See footnote.
Labor and Delivery	MCLS 333.5123: If, when a woman presents at a health care facility to deliver an infant or for care in the immediate postpartum period having recently delivered an infant outside a health care facility, no record of HIV test results is readily available to the physician or individual otherwise authorized to provide care in such a setting, then the physician or individual otherwise authorized to provide care shall take or cause to be	ACOG recommends rapid testing at labor and delivery for pregnant woman with unknown or undocumented HIV status. A rapid test is an HIV screening test with results available within hours. A negative rapid HIV test result is definitive. A positive test is not definitive and must be confirmed with a supplemental test; however, antiretroviral treatment should be initiated, with	Any woman with undocumented HIV status at the time of labor should be screened with a rapid HIV test unless she declines (opt-out screening). Immediate initiation of appropriate antiretroviral prophylaxis (42) should be recommended to women on the basis of a reactive rapid test result without waiting for the result of a confirmatory test.

¹ Women who use illicit drugs, have a sexually transmitted disease (STD) during pregnancy, have multiple sex partners during pregnancy, have an infected partner or a partner for whom any of the aforementioned are true.

² (1) Women who receive health care in jurisdictions with elevated incidence of HIV or AIDS among women aged 15--45 years. In 2004, these jurisdictions included Alabama, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Illinois, Louisiana, Maryland, Massachusetts, Mississippi, Nevada, New Jersey, New York, North Carolina, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, Tennessee, Texas, and Virginia.† (2) Women who receive health care in facilities in which prenatal screening identifies at least one HIV-infected pregnant woman per 1,000 women screened. (3) Women who are known to be at high risk for acquiring HIV (e.g., injection-drug users and their sex partners, women who exchange sex for money or drugs, women who are sex partners of HIV-infected persons, and women who have had a new or more than one sex partner during this pregnancy). (4) Women who have signs or symptoms consistent with acute HIV infection. When acute retroviral syndrome is a possibility, a plasma RNA test should be used in conjunction with an HIV antibody test to diagnose acute HIV infection (96).

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Labor and Delivery Continued	taken specimens for HIV testing unless the woman does not consent to be tested or the physician deems the tests are medically inadvisable. Guidelines: Test women with no available test result STAT with rapid or expedited point of care testing.	the mother's consent, without waiting for the results of the confirmatory test in order to further reduce possible transmission to the infant.	
Newborn Testing	MDCH guidelines state that for infants whose HIV exposure is unknown or who are in foster care, the person legally authorized to provide consent should be informed that rapid HIV testing is recommended for infants whose biological mothers have not been tested.	ACOG does not have published guidance on mandatory screening of newborns; however, mandatory newborn screening is, <i>de facto</i> , mandatory testing of mother's since heel stick results reflect the mother's infection status, not the baby's.	When the mother's HIV status is unknown postpartum, rapid testing of the newborn as soon as possible after birth is recommended so antiretroviral prophylaxis can be offered to HIV-exposed infants. Women should be informed that identifying HIV antibodies in the newborn indicates that the mother is infected. For infants whose HIV exposure status is unknown and who are in foster care, the person legally authorized to provide consent should be informed that rapid HIV testing is recommended for infants whose biologic mothers have not been tested.
Positive Test Results	Pregnant women should receive appropriate health education regarding prevention, transmission, access to clinical care, counseling and support services for HIV, hepatitis B and syphilis as a routine part of all prenatal care. Additionally, women who test positive for HIV should receive education on HIV transmission through breastfeeding and be advised not to breastfeed. For more	Consultation with a provider well versed in HIV infection is recommended. See National Perinatal HIV Consultation and Referral Service Perinatal Hotline 1-888-448-8765 (24 hours a day – 7 days a week) (clinicians only).	Whenever possible, uncertainties regarding laboratory test results indicating HIV infection status should be resolved before final decisions are made regarding reproductive options, antiretroviral therapy, cesarean delivery, or other interventions. If the confirmatory test result is not available before delivery, immediate initiation of appropriate antiretroviral prophylaxis (42) should be

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Positive Test Results Continued	information on perinatal HIV testing, contact the National Perinatal HIV Consultation and Referral Service 1-888-448-8765 or MATEC Michigan 313-962-2000 locally.		recommended to any pregnant patient whose HIV screening test result is reactive to reduce the risk for perinatal transmission. The benefits of neonatal antiretroviral prophylaxis are best realized when it is initiated ≤ 12 hours after birth (110).

References

Clinical Recommendations: ACOG State Perinatal HIV Testing Requirements - ACOG has an ongoing project to develop comparisons between state perinatal HIV testing laws/regulations and ACOG's recommendations. ACOG has developed state-specific materials for the following states: CA, CO, DC, FL, IL, IN, LA, MD, VA, TX. http://www.acog.org/departments/dept_notice.cfm?recno=39&bulletin=3529

Federal Recommendations: Centers for Disease Control and Prevention. Revised Recommendations for HIV Testing of Adults, Adolescents, and Pregnant Women in Health-Care Settings. MMWR 2006;55 (No. RR-14). <http://www.cdc.gov/mmwr/preview/mmwrhtml/rr5514a1.htm>

State Perinatal HIV Testing: Section 333.5123 of Michigan's Public Health Code, Act No. 368 of the Public Acts of 1978, as amended. Michigan Department of Community Health. Guidelines for Testing and Reporting Perinatal Human Immunodeficiency Virus (HIV), Hepatitis B, and Syphilis. Revised January 1, 2011.

Questions

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