Jim Doyle
Governor

Karen E. Timberlake
Secretary

State of Wisconsin

Department of Health Services

DIVISION OF PUBLIC HEALTH

1 WEST WILSON STREET
P O BOX 2659
MADISON WI 53701-2659

608-266-1251
FAX: 608-267-2832
TTY: 888-701-1253
dhs.wisconsin.gov

DATE: April 22, 2010

TO: Wisconsin Health Care Providers, Infection Control Practitioners, Local and Tribal Public Health Officials

FROM: Jim Vergeront, MD,
Director, AIDS/HIV Program, Wisconsin Division of Public Health

RE: Changes in Wisconsin HIV Testing Consent Statutes

On April 21, 2010, Governor Doyle signed into law Assembly Bill 659 (2009 Wisconsin Act 209) which updates state statutes related to HIV and AIDS. This law eliminates the requirement for written informed consent for HIV testing by replacing it with an opt-out testing model consistent with the Centers for Disease Control and Prevention (CDC) recommendations. This letter highlights the legislative changes regarding HIV testing consent procedures and the impact on providers when they perform HIV testing in clinical settings.

How the new law changes current clinical practice:

Under the new HIV testing requirements, a health care provider may test an individual for HIV by following these required steps:

1. The person is notified that he/she will be subjected to an HIV test unless they decline.

2. The person is offered a brief oral or written explanation of HIV infection, HIV test results, requirements for reporting HIV infection, and services provided to those who are infected. (The Division of Public Health has developed an HIV testing fact sheet to satisfy this requirement. See “tools for implementation” below).

3. The person is notified that they may decline to be tested and this fact cannot be used to deny other services or treatment by the health care provider.

4. The person is offered the opportunity to ask questions or decline the HIV test.

5. The provider verifies that the person understands that an HIV test will be performed and the decision of the person to have an HIV test performed is not coerced or involuntary.

In addition, documentation of whether the person consented to or declined the HIV test must be maintained in the person’s health care record.

Tools for implementation:
To aid in satisfying the requirement, a sample script for offering an HIV test and a sample HIV testing fact sheet can be found at the Wisconsin AIDS/HIV Program website.

Additional changes made by the new law:
The bill also updates:

- provisions related to significant exposure,
- fines and damages for unlawful disclosure of HIV test results and discrimination, and
- HIV case reporting.

A more detailed review of the new statutory provisions can be found at the Wisconsin AIDS/HIV Program website.

Wisconsin continues facing the challenge of HIV
In 2009, cases of HIV infection in Wisconsin increased by 11% compared to 2008 and have increased by 32% since 2001. An in depth analysis of the HIV epidemic in Wisconsin is located on the Wisconsin AIDS/HIV Program website.

Clinicians play a critical role
Your role is critical in responding to the challenge of HIV in Wisconsin and two clinical interventions are crucial:

1. routine HIV testing and
2. prompt initiation of HIV medical care for individuals testing HIV positive.

National organizations and professional bodies endorse opt-out HIV screening as a part of routine clinical care in health-care settings for persons age 13 to 64. Recent revisions to Wisconsin HIV testing statutes support your efforts in implementing this best practice by streamlining the way HIV testing is conducted in clinical care.

Thank you for facing the challenge of HIV and for your ongoing commitment to address this health priority in your clinical practice.

If you have questions:

- contact Christopher Bering , HIV Screening Consultant: (608) 266-3073,
- contact Kathleen Krchnavek, HIV Testing Technology and Policy Specialist: (608) 267-3583, OR
- call the Wisconsin AIDS/HIV Program general number: (608) 267-5287
- Review the Wisconsin AIDS/HIV Program website where “Frequently Asked Questions” and other implementation information will be compiled over the next several weeks.