



Oregon

Theodore R. Kulongoski, Governor

Department of Human Services

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Dear Clinical Laboratory:

This letter is to let you know about recent changes to state law regarding laboratory processing of prenatal specimens for HIV testing.

During the 2005 Session, the Oregon House passed HB 2706 which revised Oregon Revised Statutes 433.045 and 433.017. Complimentary changes have been made to administrative rules (333-019-0036). As of January 1, 2006, physicians and other health care providers in Oregon will be required to collect blood or other suitable specimens from pregnant women under their care to be tested for HIV and Hepatitis B in addition to syphilis, unless the patient declines testing. This is commonly known as “opt-out” testing for HIV in pregnancy.

To facilitate compliance with the revised statute, temporary changes effective January 1, 2006 have been made to two other administrative rules: (OAR 333-018-0030 and 333-012-0265). An administrative hearing will be scheduled during the spring of 2006 to discuss permanent changes to these rules. Copies of the revised rules are enclosed. The temporary changes will:

- **exempt prenatal testing from special informed consent requirements for HIV tests (333-018-0030) and;**
- **remove the requirement that laboratories collect a DHS prescribed form (DHS 49-03) before proceeding with the HIV test when the specimen is collected from a pregnant patient.**

The DHS form contains a physician-signed attestation that the “patient has been informed about the HIV test in full compliance with Oregon law and consented to be tested,” in addition to demographic data on the patient, reason for test, and prior test history. Although no longer required for laboratories to proceed with testing and reporting of prenatal specimens, **DHS Form 49-03 will continue to be required in most other clinical testing situations.** In addition, laboratories responsible for reporting HIV test results of pregnant women to the health care provider will now be permitted to use any forms necessary to communicate test results and billing information.

Since the new rule and statute make HIV testing in pregnancy a requirement unless the patient declines, affected laboratories may want to consider revising their ordering processes to make the HIV test a component of the standard prenatal panel of tests offered. If a patient declines any of routine prenatal tests—including HIV—it will be the responsibility of the medical provider to indicate this to the laboratory.

Please direct any questions about the changes in rules affecting HIV testing to Sean Schafer, MD, Medical Epidemiologist, HIV/STD/TB Program, Oregon Health Services, 971-673-0153.

Sincerely,
(signed copy on file)

Mel Kohn, MD, MPH, State Epidemiologist