

# DHMH POLICY

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DEPUTY SECRETARY FOR PUBLIC HEALTH—Prevention & Health Promotion Administration (PHPA)

**DHMH POLICY 03.02.01**

**Version Effective: April 26, 2016**

## DHMH HIV POLICY

### **I. EXECUTIVE SUMMARY**

This policy establishes guidelines regarding prevention, testing, treatment and care of individuals living with or at higher risk for acquiring the human immunodeficiency virus (HIV), the virus which causes acquired immunodeficiency syndrome (AIDS). The guidelines shall be followed by all Department of Health and Mental Hygiene (DHMH) employees and facilities operated by DHMH.

This policy is based on federal and State laws and regulations that are included by reference.

### **II. BACKGROUND**

The HIV Policy for DHMH Facilities was developed in 1996 by a committee consisting of representatives from the AIDS Administration, Developmental Disabilities Administration, Mental Hygiene Administration, and Local & Family Health Administration in response to the Occupational Safety and Health Administration's (OSHA) Blood-borne Pathogens Standard and Centers for Disease Control and Prevention's (CDC) Guidelines for Prevention and Control of HIV.

DHMH Policy 03.02.01 was updated in 2002 to incorporate: the Guidelines for Exposure Management; the January 2001 Final Rule from OSHA regarding safer sharps and needle stick prevention; and the June 29, 2001 U.S. Public Health Services Guidelines for Management of Occupational Blood-borne Pathogens Post-Exposure Prophylaxis.

This version effective April 26, 2016 supersedes and replaces an earlier version of DHMH Policy 03.02.01, dated April 13, 2013. The changes to this version are considered routine in nature and include updating definitions, updating links, and replacing "universal precautions" with "standard precautions" which combines the major features of Universal Precautions and Body Substance Isolation as defined by the CDC.

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### III. POLICY STATEMENTS

#### A. DEFINITIONS

1. "AIDS" means a medical condition meeting the current definition for acquired immune deficiency syndrome, published by the Morbidity and Mortality Weekly Report by the Centers for Disease Control and Prevention of the Department of Health and Human Services.
2. **Body Fluids.**
  - a. "Body fluids" means:
    - i. Any fluid containing visible blood, semen, or vaginal secretions; or
    - ii. Cerebrospinal fluid, synovial fluid, breast milk, or amniotic fluid.
  - b. "Body fluid" does not include saliva, stool, nasal secretions, sputum, tears, urine, or vomitus.
3. "Exposure" means as between a patient and a health care provider:
  - a. Percutaneous contact with blood or body fluids;
  - b. Mucocutaneous contact with blood or body fluids;
  - c. Open wound, including dermatitis, exudative lesions, or chapped skin, contact with blood or body fluids; or
  - d. Intact skin contact with blood or body fluids.
4. "Health care facility" means a facility or office where health or medical care is provided to patients by a health care provider, including:
  - a. A health care facility as defined in Health-General Article, §19-114(d)(1), Annotated Code of Maryland;
  - b. A facility operated by DHMH or a health officer;
  - c. The office of a health care provider; or
  - d. A medical laboratory.
5. **Health Care Provider.**
  - a. "Health care provider" means:

- i. A person who is licensed, certified, or otherwise authorized under the Health Occupations Article to provide health or medical care in:
  - ii. The ordinary course of business or practice of a profession; or
  - iii. An approved education or training program.
- b. **"Health care provider"** includes any agent or employee of a health care facility.
- c. **"Health care provider"** does not include any individual who is eligible to receive notification under Health-General Article, §18-213, Annotated Code of Maryland, including any law enforcement officer or any member of any fire department, ambulance company, or rescue squad.
6. **"HIV"** means the human immunodeficiency virus that causes acquired immune deficiency syndrome.
7. **"Standard precautions"** means a group of infection prevention practices that apply to all patients, regardless of suspected or confirmed diagnosis or presumed infection status, given that all blood, body fluids, secretions, excretions (except sweat), non-intact skin, and mucous membranes may contain transmissible infectious agents including HIV, hepatitis B, and other blood-borne pathogens. Standard precautions combine the major features of Universal Precautions and Body Substance Isolation.

## **B. GENERAL POLICY STATEMENTS**

### **1. Non-Discrimination.**

- a. Individuals who meet admission requirements will be admitted to, and provided care and treatment at, DHMH operated facilities without discrimination on the basis of HIV infection or AIDS diagnosis.
- b. Federal law, the Americans with Disabilities Act (ADA), and State law under State Government Article, Title 20, Annotated Code of Maryland, prohibit discrimination in employment or provision of services to persons with disabilities, including HIV infection and AIDS.

### **2. Confidentiality and Record Keeping.**

- a. Under Maryland law, Health-General Article, §4-302, Annotated Code of Maryland, all medical records are confidential documents; the law outlines permissible disclosures of information from medical records as well as for non-permissible disclosure.
- b. Information pertaining to a patient's HIV test as well as other HIV related information shall be made part of the patient's medical record.

c. In certain circumstances, as described under provisions of Health-General Article, §18-338.1, Annotated Code of Maryland, HIV test information shall be kept separate from the patient's medical records when the test is performed due to the exposure of a health care provider to a patient's blood or body fluids.

**3. Standard Precautions.**

a. The Maryland Department of Health and Mental Hygiene requires the use of *standard precautions* for infection control in all State facilities. Standard precautions, as defined by the CDC, shall be the norm.

b. Maryland law and implementing regulations require use of standard precautions in all patient care settings, and Maryland Occupational Safety and Health (MOSH) regulations require use of standard precautions to protect workers from blood-borne pathogens, including HIV.

**4. Prevention and Management of Occupational Exposures.**

a. Exposure prevention remains the primary strategy for reducing occupational blood-borne pathogen infections. DHMH facilities are required to establish exposure-control plans that include post-exposure follow-up for their employees and to comply with incident reporting requirements mandated by the 1992 OSHA blood-borne pathogen standard.

b. In accordance with COMAR 10.18.08.11, a DHMH facility where an exposure occurred shall maintain a confidential record or an incident report for an HIV test and adopt procedures for the confidential HIV testing of blood samples or other bodily fluids used or collected for purposes of Regulation .10 of COMAR 10.18.08.

c. The Maryland Department of Health and Mental Hygiene requires that all hospitals maintain a record of an exposure as defined by Health-General Article, §18-338.3(a), Annotated Code of Maryland; a refusal to consent by a patient as described in the Health-General Article, §18-338.3(b)(2)(i) and (ii), and provide records as specified in COMAR 10.18.08.11A(3) or information from the records to DHMH when and as requested by the Secretary.

d. Guidelines set forth by OSHA - Blood-borne Pathogens Standard 29 CFR 1910.1030 shall also be the standard to prevent and manage occupational exposures.

e. The OSHA Blood-borne Pathogens Standard was incorporated by reference by MOSH in COMAR 09.12.20 (previously COMAR 09.12.31).

f. DHMH employees shall follow guidelines established in COMAR 10.18.08.10 and 10.18.08.11 and by the CDC to prevent and respond to employee exposures to blood-borne infectious diseases HIV/AIDS, Hepatitis B, and Hepatitis C in the workplace.

**5. HIV Testing.**

a. When a health care provider orders an HIV test and the specimen is obtained at the facility, the facility shall ensure that the HIV testing is performed in compliance with Maryland law and regulations. Maryland law requires informed consent prior to HIV testing, in accordance with, Health-General Article, §18-336, Annotated Code of Maryland.

b. A voluntary HIV test may also be recommended when a patient was the source of a significant exposure to an employee at a facility in accordance with Health-General Article, §18-338.3, Annotated Code of Maryland.

**6. Partner Services.**

a. Known sexual or needle-sharing partners of patients who test positive for HIV shall be notified of their possible exposure to HIV and counseled about HIV testing, without identifying the patient.

b. A patient who tests HIV positive shall be instructed that he/she should inform all sexual and needle-sharing partners of his/her positive HIV status or make arrangements for them to be informed by a third party.

c. The patient shall be offered assistance in notifying his/her partners. If the patient requests assistance, the counselor may forward requests to the Partner Services staff at the local health department.

d. If the patient is informed about his/her positive test result and his/her responsibility to inform his/her sexual and needle-sharing partners and refuses to do so, the counselor shall notify the physician responsible for ordering the HIV test about the patient's refusal to notify his/her sexual and needle-sharing partners in accordance with Code of Maryland Regulations, COMAR 10.18.04.03.

**7. Staff Education.**

All employees at DHMH facilities will be provided with HIV education that will include transmission, prevention, and standard precautions for infection control. HIV education will be inclusive of MOSH Blood-borne Pathogen Rule requirements with appropriate documentation of all HIV training. Employees with direct patient contact will be educated regarding care of HIV-infected patients and counseling of patients about HIV prevention.

**8. Inpatient and Outpatient Education.**

All patients within DHMH facilities will receive HIV prevention education within seven working days of admission to a program, at least annually thereafter, or more frequently as necessary. As appropriate, patients will be offered a supply of condoms on discharge from the facility. Patients who

are assessed for education, and found unable to benefit from it due to their mental or physical condition, may be exempted from this policy. Results from this assessment shall be documented in the patient record.

#### **IV. REFERENCES**

- American Disabilities Act (ADA)


The ADA is federal legislation that ensures certain protections to individuals with disabilities. People living with HIV are protected under the ADA because they are considered to have a “disability,” defined as a physical impairment(s) that substantially limits one or more major life activities.

[www.ada.gov](http://www.ada.gov)

- Centers for Disease Control and Prevention (CDC)
  - Blood-borne Infectious Diseases HIV/AIDS, Hepatitis B, and Hepatitis C. National Institute for Occupational Safety and Health (NIOSH) Workplace Safety and Health Topic.  
<http://www.cdc.gov/niosh/topics/bbp/>
  - Standard precautions, CDC Definition  
[http://www.cdc.gov/hicpac/2007IP/2007ip\\_part3.html](http://www.cdc.gov/hicpac/2007IP/2007ip_part3.html)
  - 2007 Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings. Centers for Disease Control and Prevention (CDC), (2007).  
<http://www.cdc.gov/hicpac/pdf/isolation/Isolation2007.pdf>
  - Guideline for Infection Control in Health Care Personnel, 1998. Centers for Disease Control and Prevention (CDC), (1998).  
<http://www.cdc.gov/hicpac/pdf/InfectControl98.pdf>
- Code of Maryland Regulations (COMAR)
  - COMAR 09.12.20 (previously COMAR 09.12.31)  
Maryland regulation reference for MOSH regulations.  
[http://www.dsd.state.md.us/COMAR/SubtitleSearch.aspx?search=09.12.20.\\*](http://www.dsd.state.md.us/COMAR/SubtitleSearch.aspx?search=09.12.20.*)
  - COMAR 10.18.04.03  
Maryland regulation reference regarding partner services for potentially infected individuals.  
<http://www.dsd.state.md.us/comar/getfile.aspx?file=10.18.04.03.htm>
  - COMAR 10.18.08.10  
<http://www.dsd.state.md.us/comar/comarhtml/10/10.18.08.10.htm>
  - COMAR 10.18.08.11  
<http://www.dsd.state.md.us/comar/comarhtml/10/10.18.08.11.htm>

- Annotated Code of Maryland
  - Health-General Article, §4-302  
Maryland law reference regarding the confidentiality of medical records.  
<http://mgaleg.maryland.gov/webmga/fmStatutesText.aspx?article=ghg&section=4-302&ext=html&session=2015RS&tab=subject5>
  - Health-General Article, §18-336  
Maryland law reference regarding HIV testing requirements.  
<http://mgaleg.maryland.gov/webmga/fmStatutesText.aspx?pid=&tab=subject5&stab=&ys=2015RS&article=ghg&section=18-336&ext=html&session=2015RS>
  - Health-General Article, §18-338.1  
Maryland law reference regarding relevant definitions.  
<http://mgaleg.maryland.gov/webmga/fmStatutesText.aspx?article=ghg&section=18-338.1&ext=html&session=2015RS&tab=subject5>
  - Health-General Article, §18-338.3  
Maryland law reference regarding HIV testing of health care providers and first responders when exposed to a patient's blood or body fluid.  
<http://mgaleg.maryland.gov/webmga/fmStatutesText.aspx?article=ghg&section=18-338.3&ext=html&session=2015RS&tab=subject5>
- United States Department of Labor Occupational Safety and Health Administration (OSHA)
  - Occupational Safety and Health Standards: Blood Borne Pathogens Standard 29 CFR 1910.1030  
Federal standard guidelines for occupational safety and health of employees exposed to blood borne pathogens in the work place.  
[http://www.osha.gov/pls/oshaweb/owadisp.show\\_document?p\\_table=STANDARD&p\\_id=10051](http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=STANDARD&p_id=10051)
  - 29 CFR 1910.1030, Occupational Exposure to Bloodborne Pathogens OSHA Instruction CPL 2.103, Field Inspection Reference Manual  
This federal guidance establishes enforcement procedures for the Occupational Exposure to Bloodborne Pathogens.  
[https://www.osha.gov/pls/oshaweb/owadisp.show\\_document?p\\_table=DIRECTIVE&p\\_id=2570](https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=DIRECTIVE&p_id=2570)

**APPROVED:**

  
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**Van T. Mitchell, Secretary**

**April 26, 2016**  
**Effective Date**