

DEPARTMENT OF HUMAN SERVICES, PUBLIC HEALTH DIVISION

DIVISION 12

ACQUIRED IMMUNODEFICIENCY SYNDROME

333-012-0270

Confidentiality

(1) General. Pursuant to [ORS 433.045\(3\)](#), no person shall disclose or be compelled to disclose the identity of any individual who has an HIV-positive test result or HIV diagnosis, in a manner which permits identification of the subject of the test, except as required or permitted by the law of this state or any rule, or as authorized by the individual whose blood is tested. For purposes of this rule HIV test result means a positive HIV test result.

(2) Disclosure to or for tested individual. Positive and Negative HIV test results may be disclosed to the tested individual. HIV test results may be disclosed to the person ordering the test and to any other individual authorized by the laws of Oregon to give consent to medical procedures for the individual.

(3) Medical Information. When a licensed physician, other licensed health care provider, or licensed health care facility obtains an HIV test or HIV diagnosis of an individual, the test result, documentation of informed consent, and HIV diagnosis may be entered into the routine medical record of that individual maintained by that licensed physician, other licensed health care provider, or licensed health care facility. The information in the record may be disclosed in a manner consistent with ORS 192.518 to 192.526 to persons who must review the record for the purpose of treatment, payment or health care operations as those terms are defined in ORS 192.519.

(4) A physician may notify an individual who has had a substantial exposure to another individual whether that individual has been HIV tested, and, if so, what the test results were, provided that:

(a) The individual whose HIV test result is released is notified in writing of this disclosure; and

(b) The identity of the HIV tested person is not explicitly disclosed during the notification process. Any individual who receives an HIV test result about another individual pursuant to this rule shall not disclose the identity of that tested individual, or the results of such a test in a manner which permits identification of that tested individual without that individual's specific written authorization, except as required or permitted by Oregon law.

(5) Reporting HIV test results to public health authorities. Reporting the identity and test result of an individual with a HIV-positive test result to the Local Public Health Authority or Division on a death certificate, or as required or permitted by OAR 333-018-0000 through 333-018-0030 is not a breach of confidentiality.

(6) In the anatomical gift setting, the identity of a HIV tested deceased individual and that individual's HIV test results may be released to licensed physicians, other licensed health care providers, or licensed health care facilities to the minimum extent necessary to prevent contaminated anatomical parts from being transplanted into other individuals.

(7) Disclosure with authorization. Possession of HIV test results or HIV diagnosis does not confer the right to disclose this information to others, except as permitted by this rule and otherwise by Oregon law. HIV test results or HIV diagnosis and the identity of the tested individual may be released to any other party only with the specific written authorization of the tested individual. General consent for release of medical records is not sufficient. If, in the

judgment of the attending licensed physician the patient is incapable of making health care decisions, then anyone permitted by the laws of Oregon to give consent to medical procedures for a particular individual may give authorization for release of HIV test results of that individual. The authorization for release of HIV test results and HIV diagnosis must specifically include:

- (a) The statement that the HIV test result and HIV diagnosis may be released;
- (b) The specific purpose for which the HIV result and HIV diagnosis may be released;
- (c) Those to whom the HIV result and HIV diagnosis may be released;
- (d) The specific time period during which the release may occur; and
- (e) The date of the authorization, and the signature of the individual giving authorization.

Stat. Auth.: ORS 433.045

Stats. Implemented: ORS 433.045 - ORS 433.080