



Health and Healthy Living

Public Health Division
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September 15, 2009

Dear Colleague:

RE: The Testing of Bodily Fluids and Disclosure Legislation

The new *Testing of Bodily Fluids and Disclosure Act* will come into force on September 15, 2009. This Act allows for specified individuals to apply for a testing order when a sample has not been obtained voluntarily from a source individual, for the analysis of those samples, and for the limited disclosure of the source individual's personal health information with regard to status of HIV, Hepatitis B and Hepatitis C derived from the analysis.

Under this legislation, a person may apply for a testing order (applicant) if they came into contact with the bodily fluid of another person:

- As the result of being the victim of crime
- While providing emergency medical assistance (example: Good Samaritan)
- While performing their duties as a firefighter, emergency medical responder, paramedic or peace officer
- While performing their duties as a nurse (example: RN, RPN, LPN) or health care aide

The applicant's physician will receive a copy of the source individual's test results, along with a copy of the application form. The source individual's physician will receive a copy of the source individual's test results. In the absence of a physician for either the applicant and/or the source individual, the responsibility will fall to the Regional Medical Officer of Health (rMOH).

There are two types of testing orders that can be made – expedited and standard. An expedited testing order does not require a *Physician Report* and may be granted by a Judicial Justice of the Peace if the exposure creates or has the potential to create a moderate to high risk exposure as outlined in the risk assessment table included in the Testing of Bodily Fluids and Disclosure Regulation (the "Regulation") made under the Act. An application for a standard testing order goes to the Court of Queen's Bench and requires a *Physician Report*. This report will assist the court in determining whether or not a testing order is useful for the treatment or management of the applicant and what should be included in a testing order. The information required in this report is set out in the Act and the Regulation including:

- The need for baseline testing on the applicant to determine whether they are infected, and
- Whether the testing order would assist the applicant in taking measures to decrease or eliminate the risk to their own health.

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Further information on *The Testing of Bodily Fluids and Disclosure Act* and the Regulation, including links to the legislation, fact sheets for occupational and other exposure, the application form for an expedited testing order as well as the Manitoba Health and Healthy Living Integrated Post-Exposure Prophylaxis Protocol (2009) may be obtained from The Communicable Disease Control Branch website <http://www.gov.mb.ca/health/publichealth/tbfd.html>.

Should you have any questions regarding this process, please contact Shelley Stopera at 788-6713.
Please share this communication with all colleagues in your department or facility.

Sincerely,

“ORIGINAL LETTER SIGNED BY”

Joel Kettner, MD, MSc, FRCSC, FRCPC