

# Information Accompanying Testing Order

(section 8)

## **About the Testing Order**

The *Emergency Intervention Disclosure Act* permits individuals (referred to as the “exposed individual”) in any of the following circumstances to apply to the court for an order to have another person tested for hepatitis B, hepatitis C or HIV if they have come into contact with a bodily substance of that other person (the “source individual”):

- while providing emergency health services,
- while performing their duties as a firefighter, emergency medical assistant or peace officer,
- when the exposed individual is the victim of an alleged offence under the *Criminal Code* and has reported the matter to a law enforcement agency.

The purpose of the testing order is to provide information to the applicant (exposed individual) about the health status of the source individual, which may assist the applicant and/or their physician in managing the consequences of the exposure.

Under authority of that Act, the Provincial Court of British Columbia has issued the accompanying testing order. It requires the individual named in the order (source individual) to be tested for the specified diseases. It also requires the health facility identified in the order to take from the source individual a sample of the bodily fluid specified in the order so that the sample can be tested.

## **Confidentiality Requirements**

The *Emergency Intervention Disclosure Act* provides that a person must not disclose any information concerning either the applicant for a testing order (exposed individual) or the source individual if the information comes to the person’s attention in the course of carrying out responsibilities under this Act or as a result of obtaining a testing order. A person may, however, disclose such information in the course of carrying out duties imposed under the Act. As well, information may be disclosed in the course of a consultation between qualified health professionals.

The Act provides for a fine of up to \$10 000 for an individual, and up to \$25 000 for a corporation, who contravenes the confidentiality requirements of this legislation. If the offence continues for more than one day, separate fines may be imposed for each day the offence continues.

For additional information on the confidentiality requirements, including additional circumstances where information disclosure is permitted, please refer to section 9 of the *Emergency Intervention Disclosure Act* and section 11 of the *Emergency Intervention Disclosure Regulation*.

## **Information for the Applicant (Exposed Individual) who has Obtained a Testing Order**

If you are the person who applied for the testing order, you must serve the order in person, or arrange to have it served in person, on both the source individual and the health facility identified in the order within the time period specified in the order. At the same time, you must also serve the source individual and the health facility each with a copy of this information sheet.

If the source individual is a minor, you should serve the testing order and a copy of this information sheet on the source individual’s guardian instead of the minor.

Your physician will provide you with the test results once they are available.

You must treat all information concerning the source individual, including the test results, as confidential in accordance with the confidentiality requirements of the *Emergency Intervention Disclosure Act*.

### **Information for the Source Individual who has Been Served With a Testing Order**

If you are the person who is required to be tested for the specified diseases, you must attend the health facility identified in the testing order, within the time period specified in the order, to have the specified type of bodily fluid taken for testing. As part of the testing, you will be provided with the option of whether to have your test results for HIV reported to a medical health officer.

Your test results will be recorded in the province's laboratory information system, as is the case for all British Columbians' lab test results. You have the right to apply a disclosure directive to your electronic health record, allowing you to choose which health care providers can access your results.

You are not required to pay for the cost of taking and analyzing the sample, or the cost of communicating the test results to you.

Your physician will provide you with the test results once they are available. You should provide the name of your physician to the health facility when the bodily fluid sample is taken. If you do not have a physician, the testing lab will send the results directly to you.

You must treat all information concerning the applicant (exposed individual) as confidential in accordance with the confidentiality requirements of the *Emergency Intervention Disclosure Act*. The applicant is also required to treat your information, including your test results, as confidential.

If you do not comply with the testing order, the *Emergency Intervention Disclosure Act* provides fines of up to \$10 000, upon conviction, for each day that the contravention continues.

If you have been served with the testing order as the guardian of a minor, you must take all reasonable steps to ensure that the minor complies with the order.

You have the right to appeal the court's decision relating to the testing order to the Supreme Court of British Columbia.

### **Information for the Health Facility Identified in the Testing Order**

When the source individual named in the testing order comes to the identified health facility for testing, the health facility must ensure that a sample of the bodily fluid identified in the order is taken.

The health facility must then deliver the sample to the British Columbia Centre for Disease Control to have the sample analyzed for the specified diseases. At the same time, the health facility must provide this laboratory with a copy of the following:

- the testing order;
- this information sheet.

### **Information for the Qualified Analyst who Analyzes the Sample**

A qualified analyst is a physician providing medical laboratory services for the British Columbia Centre for Disease Control.

The qualified analyst who receives the source individual's bodily fluid sample from a health facility must conduct an analysis of the sample for the pathogens that cause the specified diseases. The qualified analyst must ensure that

- the sample is not used for any purpose other than the analysis required under the testing order,
- the sample is not released or accessible to anyone other than a person who is carrying out the analysis required by the testing order on behalf of the qualified analyst, and
- the results of the analysis are not disclosed except in accordance with the *Emergency Intervention Disclosure Act* or the *Public Health Act*.

When the analysis is complete, the qualified analyst must promptly provide a written report of the results to the applicant's (exposed individual's) physician and to the source individual's physician. If the source individual's physician is not known, the written report must be provided to the source individual. At the same time, the qualified analyst must provide the physicians (and source individual, if applicable) with a copy of the following:

- the testing order;
- this information sheet.

### **Information for Physicians Providing the Test Results**

As soon as reasonably possible after receiving the test results from the qualified analyst, the applicant's physician must notify the applicant (exposed individual) of the test results, and the source individual's physician must notify the source individual of the test results.

If the applicant or the source individual is a minor, the physician may notify that person's guardian of the test results.

### **For Additional Information**

Please refer to the following website for more information about the *Emergency Intervention Disclosure Act* and testing orders:

<http://www.labour.gov.bc.ca/eida.htm>