

By Randy Boyle

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Question : My client went to her physician for her prenatal c

Answer : No, she is not required to take the test. The doct

HIV testing of pregnant women is not required by the state. (1) Even if the mother believes that the test is important for the health of the fetus, (2) the doctor is not required to perform the test. (3) The doctor is required to inform the mother of the test and the consequences of not taking the test. (4)

The 1996 reauthorization of the Ryan White CARE Act by the President Clinton Administration, which was signed into law in August 1996, required that all states have a policy of universal HIV testing for pregnant women. (6) (7) (8) (9) (10)

According to an as yet unpublished study of the medical community, (11) (12) (13) (14) (15) (16) (17) (18)

Even if a woman refuses to be tested for HIV, the law requires that she be offered the test. (19) (20)

Mandatory testing is a violation of the Constitution, and a person's right to privacy is violated. (21) (22)

Testing for HIV, as the other CDC guidelines require, should be done in a confidential setting. (23) (24)

Many states have laws regarding the confidentiality of HIV test results. (25)

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D. Hermann & Wegman, *Aspects of AIDS*, St. Paul, Minn: West Group, 1991.

D. Webber, editor, *AIDS and the Law*, 2nd Ed., Wiley Law Publications, 1991.

CDC. *Recommendations and Guidelines for HIV Testing*, MMWR 1994;43 (Public Health Service).

Institute of Medicine, *Reducing the Risks of HIV Infection*, Washington, DC: National Academy Press, 1991.

42 U.S.C. §300ff-33.

42 U.S.C. §300ff-34(e)(2). The threat of a funding cut-off has not b

42 U.S.C. §300ff-36(a).

By "universal," the report recommends HIV testing of all women.

Reducing the Odds at 109-110.

Reducing the Odds at 110.

The study is cited in Reducing the Odds at 69-70.

***Id* .**

***Id* .**

Id.

Id.

Id. .

Id. .

E.g. Arkansas' law is entitled, "Testing of pregnant women requi

See e.g . Indiana Stats. Annot. §16-41-6-4; N.Y Pub. Health

Reducing the Odds at 17. Tests of newborns can also yield false

D. Webber, *supra* , §2.2

Id. .

See e.g. Calif. Health and Safety Code §§120990, 121020. Even in

U.S. Public Health Service Regs. (No. 195) at 8 for Human Immun

D. Herman & W. Schurkin, , §8:24 Supp.

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