

Compatibility of the 2006 CDC Recommendations for HIV Testing in Healthcare Settings with Existing State Law

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Background

- The HIV Epidemic in the United States
 - 1 million people are infected
 - about 300,000 are unaware of their positive status*
 - 32,000 new sexually transmitted infections/yr
 - problem of late diagnosis



Background

- Routine voluntary counseling & testing in a variety of healthcare settings
- Persistent barriers to routine HIV testing:
 - Informed consent
 - Pre/post test counseling



Change in Testing Recommendations

- CDC Revised Recommendations for HIV Testing of Adults in Health-Care Settings (9/06)
 - ‘Opt-out’ HIV screening of all patients
 - Informed consent should not be required
 - Counseling should not be required
 - HIV testing in routine panel of prenatal screening



Concerns about the Recommendations

- Patient autonomy
- Meeting psychological and educational needs in the absence of counseling
- Linking HIV-positive patients to HIV care



Objectives

1. To determine the compatibility of the 2006 CDC recommendations with existing state law.
2. To determine whether the State Department of Health websites offer guidance to providers about the 2006 CDC Recommendations.



Methods

Assessing Legal Compatibility

- We used Westlaw & LexisNexis to identify all statutes pertaining to HIV testing in all 50 states & DC.
- We examined each statute with reference to:
 - *consent*
 - *counseling*
 - *prenatal screening*
- We categorized states as either *High*, *Intermediate*, or *Low* Legal Compatibility with the 2006 CDC Recommendations.



Methods

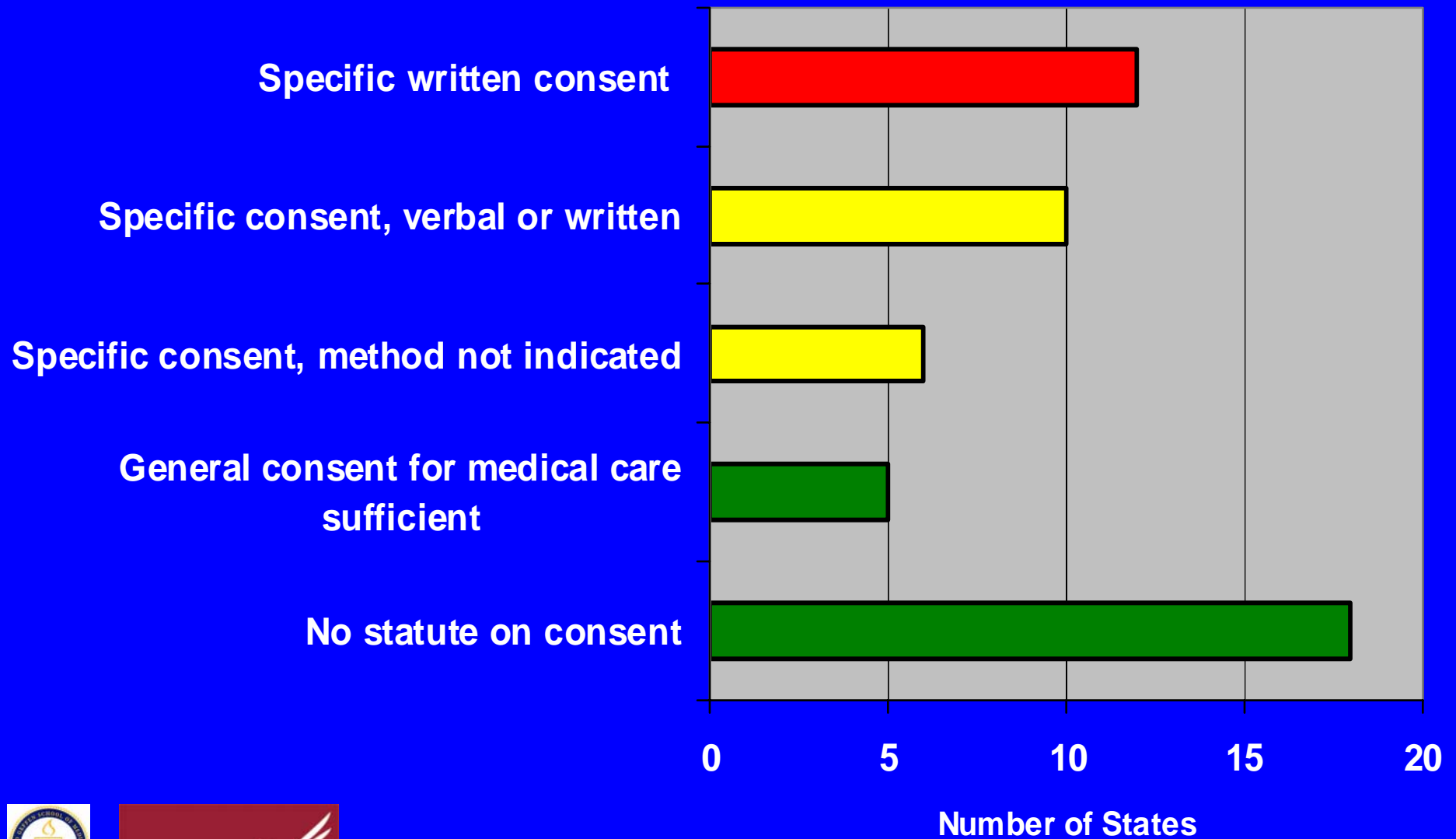
Assessing Guidance to Providers

- We conducted a systematic content analysis of guidance offered to providers on state DOH websites.
- We analyzed content relating to:
 - testing procedures
 - HIV testing laws
 - 2006 CDC Recommendations for HIV Testing



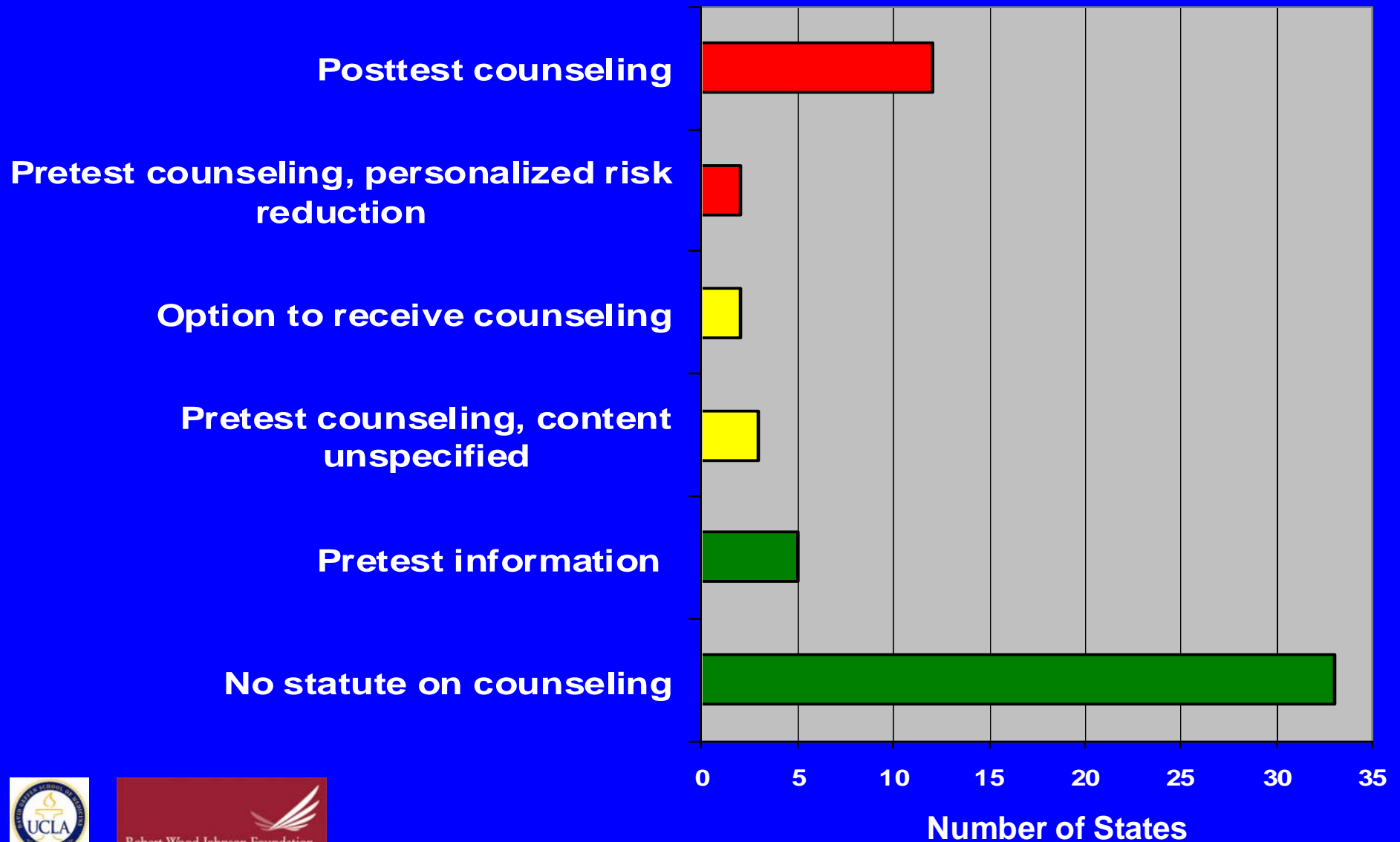
Results

Statutes related to *Consent*



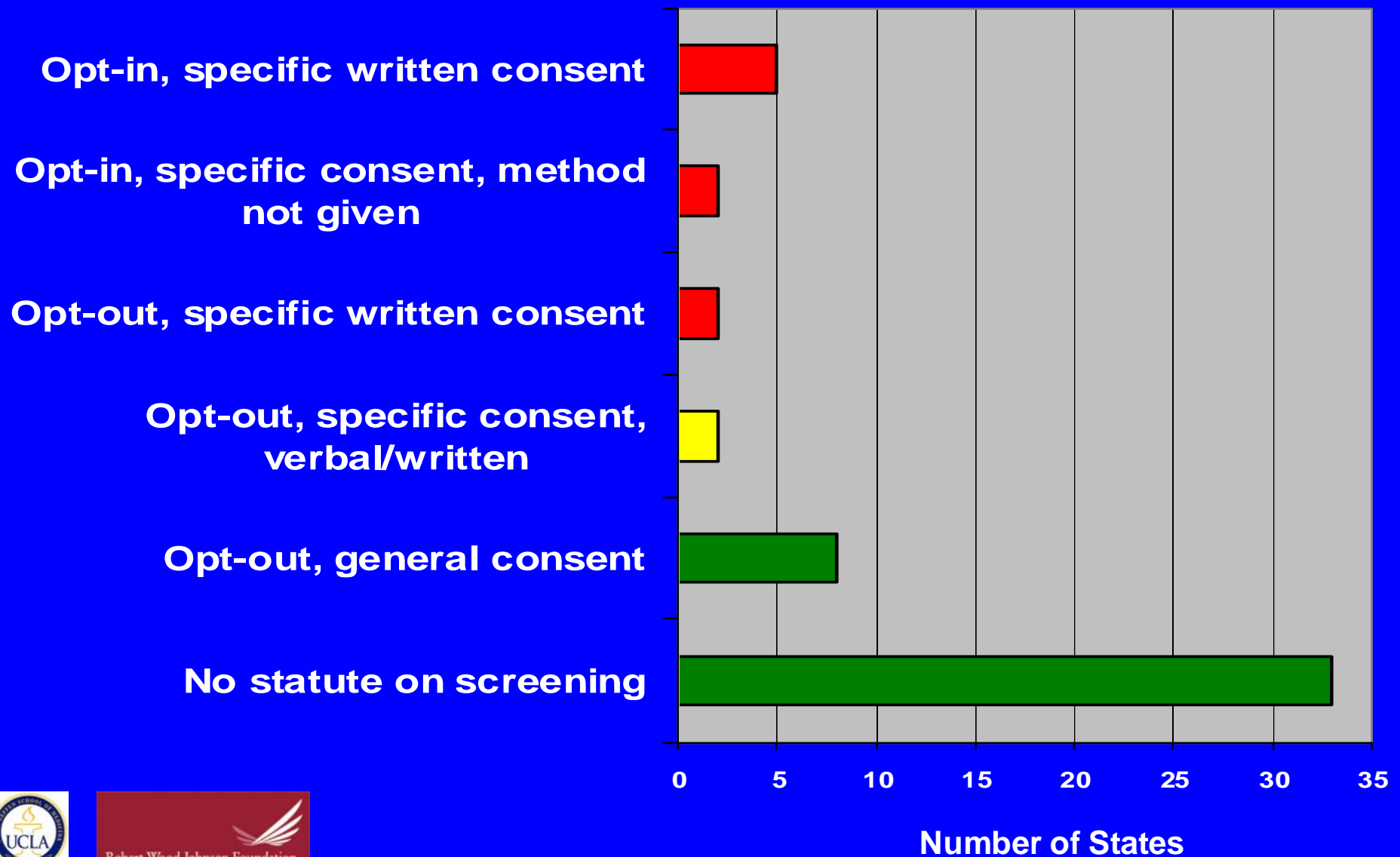
Results

Statutes related to *Counseling*



Results

Statutes related to *Prenatal Screening*



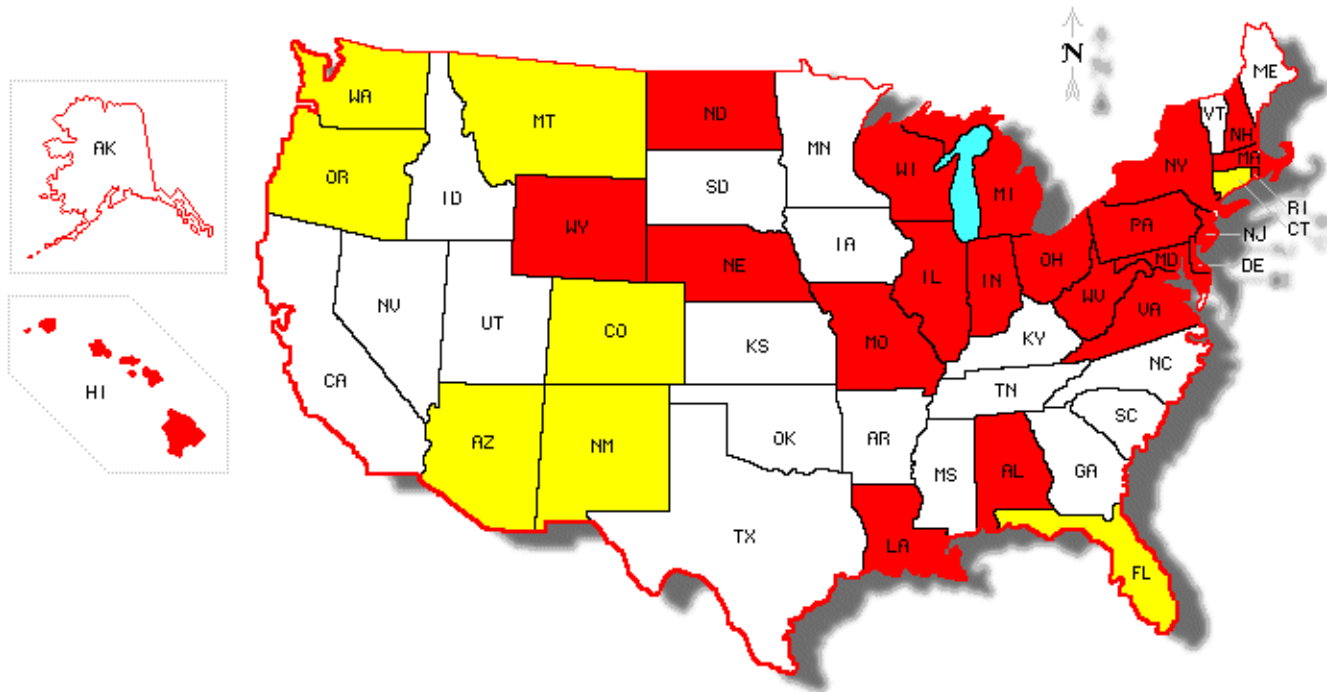
Results

Overall Legal Compatibility of Each *State*



Compatibility	Criteria
Low	One or more statutes is a barrier
Intermediate	Statutes enable modified implementation AND no barriers
High	Statutes consistent with CDC Recs OR no barriers





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Intermediate Legal Compatibility: 8 States

Results

State Guidance to Providers

DOH Website Content Analysis

Website Content Element	Number of States
Specific guidance about obtaining consent for HIV testing	12
HIV testing laws posted on website	14*
Explanation of legal requirements for HIV testing	7*
Acknowledgement of 2006 CDC Recommendations	8

* Out of 36 states with HIV testing laws.



Limitations

- Analysis was limited to state law and does not account for administrative rules and regulations.
- State DOHs may be disseminating testing recommendations by means other than their websites.



Conclusions

- 22 states have laws that are *not compatible* with the 2006 CDC Recommendations.
- 8 states have laws that enable *modified implementation* of the 2006 CDC Recommendations.
- 21 States are *compatible* with the 2006 CDC Recommendations.
- Few states offer guidance to providers about HIV testing on their Department of Health websites.



Policy Implications

- Stakeholders should:
 - develop *locally acceptable* implementation plans that
 - are compatible with existing state law
 - ensure patient autonomy & referral access to counseling/care
 - work with legislators to amend obstructive laws
 - ensure that providers are offered clear and accessible guidance regarding HIV screening



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