

November 10, 2021

House Chair Marjorie C. Decker  
Joint Committee on Public Health  
State House Room 33  
24 Beacon Street  
Boston, MA 02133

Senate Chair Joanne M. Comerford  
Joint Committee on Public Health  
State House Room 413-C  
24 Beacon Street  
Boston, MA 02133

Dear Chair Decker, Chair Comerford, and Members of the Joint Committee on Public Health,

Fenway Health wishes to submit this written testimony for the following bills:

IN OPPOSITION

- H.2301 and S.1455 An Act relative to healthcare worker and first responder safety (Garlick and Lesser)
- H.2251 An Act relative to the exposure of public safety officials to HIV (Cronin)
- H.2223 An Act relative to HLTV 111 tests (Ayers)

IN SUPPORT

- H.2347 and S.1405 An Act relative to HIV routine screening and care (Lewis and Cyr)
- S.1485 An Act improving Hepatitis C screening (Montigny)

Founded in 1971, Fenway Health advocates for and delivers innovative, equitable, accessible health care, supportive services, and transformative research and education. We center LGBTQIA+ people, BIPOC individuals, and other underserved communities to enable our local, national, and global neighbors to flourish.

We are motivated by the belief that healthcare is a right, not a privilege. AIDS Action, the public health division of Fenway Health, aims to fight HIV health inequities by eliminating new infections, maximizing healthier outcomes for those infected and at risk, and tackling the root causes of HIV/AIDS.

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**Opposition to H.2301, S.1455, H.2251, and H.2223 (occupational exposure and mandated testing)**

We recognize that the sponsors of this legislation are well-intentioned. Nonetheless, we are opposed to these bills, which would force individuals to get an HIV test and to disclose their HIV status against their will. The bills address scenarios where “bodily fluids” come into contact with professionals in occupational settings, such as first responders, medical professionals, or correctional officers. While the goal of reducing the transmission of HIV is one we all of course wholeheartedly support, these bills do not accomplish that goal. They are based on outdated information about HIV transmission and post-exposure prophylaxis options; they are counter to the latest science and public health guidelines for handling occupational exposures<sup>1</sup>.

These bills would undermine and eliminate essential protections built into current HIV privacy laws. Chapter 111, Section 70F of the Massachusetts General Laws ensures no individual may be forced to get

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<sup>1</sup> <https://www.cdc.gov/hiv/workplace/healthcareworkers.html>

an HIV test against their will, and protects people from having their private HIV medical information disclosed without their consent. This law is in place to encourage people to get tested knowing their health information is protected. Allowing individuals to be tested without their knowledge or consent undermines those very protections. HIV is still a highly stigmatized condition, and disclosure still leads to people losing relationships, jobs, housing, and social acceptance in many settings.

While these bills could cause harm to the person tested without their consent, they would also be ineffective at protecting the personnel potentially exposed to HIV through an occupational exposure. The possibility of a false negative test result would mislead the person potentially exposed into a false sense of security about the need to take post-exposure treatment, contrary to guidelines issued by the U.S. Public Health Service<sup>2</sup>. These well recognized national guidelines recommend starting a post-exposure prophylaxis (PEP) regimen of anti-HIV medications as quickly as possible, within 72 hours of a high risk occupational exposure. While determining the HIV status of the source patient is advisable, such testing is recommended “without delaying PEP initiation in the exposed provider.”

The HIV status of the source patient is also incomplete information, and does not solely determine initiation of PEP for another important reason. The individual tested could be in the “window period” between exposure and development of antibodies. This period can vary greatly among individuals, the longest time period being six months—meaning one can become infected with HIV but their immune system takes six months to produce the antibodies detected and measured in an HIV test.

In the worst case scenario, an individual has recently become HIV infected, but is tested during the window period, resulting in a negative HIV antibody test. This could provide a dangerous sense of false security without a full evaluation of risks, and could serve as a disincentive to begin PEP or to continue and finish that treatment regimen once started. It is worth noting that discontinuing PEP too early can cause complications later on if transmission actually occurred, and can limit future treatment options. While testing the source patient can be helpful information, it is only useful in the general context of ascertaining risk looking at a variety of factors.

HIV is a virus of extremely low transmission in occupational settings. Nationally, there have only been 58 confirmed cases of occupational HIV transmission to health care personnel since the beginning of the AIDS epidemic, and only one in the last twenty years.<sup>3</sup> That one case, in 2008, involved laboratory personnel working with highly infectious live HIV cultures, not a scenario envisioned in these bills. Most of the 58 transmissions occurred before the advent of standard universal precautions, infection control procedures, and the development of new safety devices. It is critical to evaluate the utility of this bill in light of the relatively minimal risk of occupationally acquired HIV, and the tools we have available to minimize that risk to near zero.

With the risk of HIV infection from occupational exposure at near zero, what problem are these bills actually trying to solve? The answer is likely rooted in the understandable fear of HIV. It is that same fear and stigma around HIV that makes our state’s HIV privacy laws still so essential. Public safety officials, health care personnel, and other individuals with a perceived risk of acquiring HIV deserve timely and comprehensive counseling, treatment, and access to PEP, whenever warranted. They deserve our

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<sup>2</sup> <https://stacks.cdc.gov/view/cdc/20711>

<sup>3</sup> <https://www.cdc.gov/mmwr/preview/mmwrhtml/mm6353a4.htm>

compassion and understanding for the fears associated with HIV. But as a matter of policy, our state laws and institutional policies should be based on science and not fear.

Another concern underlying these bills is anxiety around taking PEP. Historically, HIV medications, including those used for PEP, were limited to a few options, each of which had higher levels of side effects and drug interactions than we see today. This made the regimens of the past more difficult to adhere to, creating additional anxiety. HIV medications, both for treatment and for PEP, have been significantly improved in recent years. Many HIV regimens now exist that are one pill a day, easily tolerated with minimal to no side effects, far better safety profiles than earlier options, and those improvements have continued even in the last few years with new and better regimens available. That doesn't mean there isn't stress associated with taking such regimens, but stress can be managed with sensitivity and appropriate support from occupational health and medical professionals.

Institutions with high rates of occupational injuries have an obligation to protect the safety and well-being of their staff, review standard procedures designed to minimize such occurrences, and to provide appropriate treatment and referrals. Ultimately, the best course of action when confronting a potential exposure is to follow national guidelines, assess the actual risk of transmission, begin PEP if warranted, and continue to ensure access to counseling and voluntary HIV, hepatitis B and hepatitis C screening. Institutions should also be offering HIV testing as a matter of routine care for all adults, as recommended by the CDC. This would be one of the most effective ways of ensuring everyone living with HIV knows their status, is able to get treatment and reduces the spread of HIV.

We would happily work with this committee, as well as the sponsors of these bills who again we know to be well intentioned, to achieve our common goal of eliminating HIV infections, reducing the stigma and fear associated with HIV, and ensuring our workforce has the tools and resources they need to do their jobs safely.

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### **Support for H.2347 and S.1405 (HIV screening and care)**

In 2016, the Massachusetts Getting to Zero Coalition released the Massachusetts Comprehensive Plan to Eliminate HIV Discrimination, AIDS Related Deaths, and New HIV Infections, a blueprint that lays out strategic priorities for ending the HIV/AIDS epidemic in Massachusetts. The report recommends updating HIV routine screening and record-sharing laws. This policy change would modify the Commonwealth's HIV testing consent law to be in full compliance with the CDC recommendation for opt-out testing. Routine screening protocols, such as EMR-prompted labs automatically including HIV testing, are hindered by current law.

Additionally, patients living with HIV are burdened with additional unnecessary paperwork and medical releases in order to access care when moving between providers. This bill maintains HIV privacy protections while updating antiquated statutes to streamline access to routine HIV testing and care.

Fenway Health has been supportive of this bill based on its capacity to remove barriers to care for clients and patients, streamline their continuum of care, support better adherence to their treatment plans, and still maintain their privacy protections. However, we are also sensitive to the concerns raised by our allies in the LGBTQ and HIV/AIDS advocacy space. Fenway Health and GLAD have been engaged in

discussions about the complexities of the bill for the last 3 years. GLAD's concern about potential unintended impacts on confidentiality and informed consent protections are something we take very seriously. Together, Fenway Health and GLAD are striving to reach consensus on how to advance the goals of the bill without undermining the essential protections of Ch. 111, 70f. We are working together to gather input from stakeholders and reach a consensus that the whole community feels serves the interests and protections of people living with and at risk for HIV. Our goal is to address any questions that arise, to advance the goal of achieving unfettered access to care and treatment.

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### **Support for S.1485 (expanded HCV screening)**

Recent trends in Hepatitis C Virus (HCV) infection have revealed an increase in new cases among individuals aged 18 and older, with a likely link to the injectable opioid epidemic. Current Massachusetts law requires primary care doctors offer their "baby boomer" patients (those born between 1945 and 1965) a one-time screening for HCV. This bill would improve and update this law to reach the growing demographic, the first step in engaging them in care.

Not only would expanding the screening and testing recommendations help Massachusetts move closer to elimination of HCV, it is also cost-effective. This expansion would lead to improved clinical outcomes by identifying infected individuals early in their disease progression, enable better individual health outcomes and reduce long term health care costs.

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We respectfully urge the committee to grant an unfavorable report to H.2301, S.1455, H.2251, and H.2223. We would happily work with this committee, as well as the sponsors of these bills, who, again, we know to be well intentioned, to achieve our common goal of eliminating HIV infections, reducing the stigma and fear associated with HIV, and ensuring our workforce has the tools and resources they need to do their jobs safely without harmful policy changes.

We also request your support and a favorable report for H.2347, S.1405, and S.1485. Please consider us a resource and do not hesitate to reach out with questions regarding these bills or any issues related to screening, testing, and ensuring access to treatment and prevention of HIV and HCV.

Thank you.  
Sincerely,



Carl Sciortino  
Executive Vice President of External Relations  
Fenway Health