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Local Service Category:	Oral Health Care
Amount Available:	To be determined
Unit Cost:	
Budget Requirements or Restrictions (TRG Only):	Maximum of 10% of budget for Administrative Costs
Local Service Category Definition:	<p>Restorative dental services, oral surgery, root canal therapy, fixed and removable prosthodontics; periodontal services includes subgingival scaling, gingival curettage, osseous surgery, gingivectomy, provisional splinting, laser procedures and maintenance. Oral medication (including pain control) for people living with HIV (PLWH) 15 years of age or older must be based on a comprehensive individual treatment plan.</p> <p>Prosthodontics services to people living with HIV including but not limited to examinations and diagnosis of need for dentures, crowns, bridgework and implants, diagnostic measurements, laboratory services, tooth extraction, relines and denture repairs.</p> <p>Emergency procedures will be treated on a walk-in basis as availability and funding allows. Funded Oral Health Care providers are permitted to provide necessary emergency care regardless of a PLWH's annual benefit balance. If a provider cannot provide adequate services for emergency care, the PLWH should be referred to a hospital emergency room.</p>
Target Population (age, gender, geographic, race, ethnicity, etc.):	People living with HIV residing in the Houston HIV Service Delivery Area (HSDA).
Services to be Provided:	<p>Services must include, but are not limited to: individual comprehensive treatment plan; diagnosis and treatment of HIV-related oral pathology, including oral Kaposi's Sarcoma, CMV ulceration, hairy leukoplakia, xerostomia, lichen planus, aphthous ulcers and herpetic lesions; diffuse infiltrative lymphocytosis; standard oral health education and preventive procedures, including oral hygiene instruction, smoking/tobacco cessation (as indicated), diet counseling and home care program; oral prophylaxis; restorative care; oral surgery including dental implants; root canal therapy; fixed and removable prosthodontics including crowns and bridges; periodontal services, including subgingival scaling, gingival curettage, osseous surgery, gingivectomy, provisional splinting, laser procedures and maintenance. Proposer must have mechanism in place to provide oral pain medication as prescribed for PLWH by the dentist.</p> <p>Limitations:</p> <ul style="list-style-type: none"> • Cosmetic dentistry for cosmetic purposes only is prohibited. • Maximum amount that may be funded by Ryan White/State Services per PLWH is \$3,000/year. <ul style="list-style-type: none"> • In cases of emergency, the maximum amount may exceed the above cap • In cases where there is extensive care needed once the procedure has begun, the maximum amount may exceed the above cap. • Dental providers must document <i>via approved waiver</i> the reason for exceeding the yearly maximum amount.
Service Unit Definition(s) (TRG Only):	General Dentistry: A unit of service is defined as one (1) dental visit which includes restorative dental services, oral surgery, root canal therapy, fixed and removable prosthodontics; periodontal services includes subgingival scaling, gingival curettage, osseous surgery, gingivectomy, provisional splinting, laser procedures and maintenance. Oral medication

	<p>(including pain control) for PLWH 15 years old or older must be based on a comprehensive individual treatment plan.</p> <p>Prosthodontics: A unit of services is defined as one (1) Prosthodontics visit.</p>
Financial Eligibility:	Income at or below 300% Federal Poverty Guidelines. Maximum amount that may be funded by Ryan White/State Services per PLWH is \$3,000/year.
Eligibility for Services:	Person living with HIV; Adult resident of Houston HSDA
Agency Requirements (TRG Only):	<p>To ensure that Ryan White is payer of last resort, Agency and/or dental providers (clinicians) must be Medicaid certified and enrolled in all Dental Plans offered to Texas STAR+PLUS eligible PLWH in the Houston EMA/HSDA. Agency/providers must ensure Medicaid certification and billing capability for STAR+PLUS eligible PLWH remains current throughout the contract term.</p> <p>Agency must document that the primary PLWH care dentist has 2 years prior experience treating HIV disease and/or on-going HIV educational programs that are documented in personnel files and updated regularly. Dental facility and appropriate dental staff must maintain Texas licensure/certification and follow all applicable OSHA requirements for PLWH management and laboratory protocol.</p>
Staff Requirements:	State of Texas dental license; licensed dental hygienist and state radiology certification for dental assistants.
Special Requirements (TRG Only):	<p>Must comply with the Houston EMA/HSDA Standards of Care.</p> <p>The agency must comply with the DSHS Oral Health Care Standards of Care. The agency must have policies and procedures in place that comply with the standards <i>prior</i> to delivery of the service.</p> <p>Oral Health Care services can be delivered via telehealth and must follow applicable federal and State of Texas privacy laws.</p>

FY 2024 RWPC “How to Best Meet the Need” Decision Process

Step in Process: Council		Date: 06/08/2023
Recommendations:	Approved: Y: _____ No: _____ Approved With Changes: _____	If approved with changes list changes below:
1.		
2.		
3.		
Step in Process: Steering Committee		Date: 06/01/2023
Recommendations:	Approved: Y: _____ No: _____ Approved With Changes: _____	If approved with changes list changes below:
1.		
2.		
3.		
Step in Process: Quality Improvement Committee		Date: 05/2023
Recommendations:	Approved: Y: _____ No: _____ Approved With Changes: _____	If approved with changes list changes below:
1.		
2.		
3.		
Step in Process: HTBMTN Workgroup #2		Date: 04/19/2023
Recommendations:	Financial Eligibility:	
1.		
2.		
3.		

Houston EMA/HSDA Ryan White Part A/MAI Service Definition Oral Health/Rural (Last Review/Approval Date: November 2021)	
HRSA Service Category Title: RWGA Only	Oral Health
Local Service Category Title:	Oral Health – <u>Rural (North)</u>
Budget Type: RWGA Only	Unit Cost
Budget Requirements or Restrictions: RWGA Only	Not Applicable
HRSA Service Category Definition: RWGA Only	Oral health care includes diagnostic, preventive, and therapeutic services provided by general dental practitioners, dental specialists, dental hygienists and auxiliaries, and other trained primary care providers.
Local Service Category Definition:	Restorative dental services, oral surgery, root canal therapy, fixed and removable prosthodontics; periodontal services includes subgingival scaling, gingival curettage, osseous surgery, gingivectomy, provisional splinting, laser procedures and maintenance. Oral medication (including pain control) for HIV patients 15 years old or older must be based on a comprehensive individual treatment plan. Prosthodontics services to eligible clients including, but not limited to examinations and diagnosis of need for dentures, diagnostic measurements, laboratory services, tooth extractions, relines and denture repairs.
Target Population (age, gender, geographic, race, ethnicity, etc.):	Persons with HIV residing in Houston Eligible Metropolitan Area (EMA) or Health Service Delivery Area (HSDA) counties other than Harris County. Comprehensive Oral Health services targeted to individuals residing in the northern counties of the EMA/HSDA, including Waller, Walker, Montgomery, Austin, Chambers and Liberty Counties.
Services to be Provided:	Services must include, but are not limited to: individual comprehensive treatment plan; diagnosis and treatment of HIV-related oral pathology, including oral Kaposi's Sarcoma, CMV ulceration, hairy leukoplakia, xerostomia, lichen planus, aphthous ulcers and herpetic lesions; diffuse infiltrative lymphocytosis; standard preventive procedures, including oral hygiene instruction, diet counseling and home care program; oral prophylaxis; restorative care; oral surgery including dental implants; root canal therapy; fixed and removable prosthodontics including crowns, bridges and implants; periodontal services, including subgingival scaling, gingival curettage, osseous surgery, gingivectomy, provisional splinting, laser procedures and maintenance. Proposer must have mechanism in place to provide oral pain medication as prescribed for clients by the dentist.
Service Unit Definition(s): RWGA Only	General Dentistry: A unit of service is defined as one (1) dental visit which includes restorative dental services, oral surgery, root

	<p>canal therapy, fixed and removable prosthodontics; periodontal services includes subgingival scaling, gingival curettage, osseous surgery, gingivectomy, provisional splinting, laser procedures and maintenance. Oral medication (including pain control) for HIV patients 15 years old or older must be based on a comprehensive individual treatment plan.</p> <p>Prosthodontics: A unit of services is defined as one (1) Prosthodontics visit.</p>
Financial Eligibility:	Refer to the RWPC's approved <i>Financial Eligibility for Houston EMA/HSDA Services</i> .
Client Eligibility:	Adult persons with HIV residing in the rural area of Houston EMA/HSDA meeting financial eligibility criteria.
Agency Requirements:	<p>Agency must document that the primary patient care dentist has 2 years prior experience treating HIV disease and/or on-going HIV educational programs that are documented in personnel files and updated regularly.</p> <p>Service delivery site must be located in one of the northern counties of the EMA/HSDA area: Waller, Walker, Montgomery, Austin, Chambers or Liberty Counties</p>
Staff Requirements:	State of Texas dental license; licensed dental hygienist and state radiology certification for dental assistants.
Special Requirements: RWGA Only	<p><u>Agency and/or dental providers (clinicians) must be Medicaid certified and enrolled in all Dental Plans offered to Texas STAR+PLUS eligible clients in the Houston EMA/HSDA.</u></p> <p><u>Agency/providers must ensure Medicaid certification and billing capability for STAR+PLUS eligible patients remains current throughout the contract term.</u></p> <p>Must comply with the joint Part A/B standards of care where applicable.</p>

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Recommendations:	Financial Eligibility:	
1.		
2.		
3.		

Modified Monitoring Process

Effective March 13, 2020 TRG enacted emergency response procedures due to COVID-19 pandemic. All monitoring was deferred/suspended in 2020 per DSHS and HRSA guidance.

In 2020, DSHS launched a burden reduction plan to reduce administrative burden by 50% for AA's and Subrecipients.

- This model requires subrecipient monitoring every other year (even years only).
- Per DSHS guidance, TRG is not required to complete monitoring in odd years
- In 2020, subrecipients that didn't have the ability to complete a remote review, were exempted from the 2020 Standards of Care chart review monitoring due to the COVID-19 State of Emergency.

2022 Monitoring

This year all subrecipients will be monitored, remotely if possible and in-person if necessary.

The monitoring period will cover calendar year 2021



Special chart review process is being evaluated for the RW Planning Council process during the "odd" years DSHS is not requiring monitoring (requires DSHS approval)

Oral Healthcare (OHC)

OHC WAS REVIEWED IN 2020. PLEASE NOTE NOT ALL PROVIDERS WERE ASSESSED.

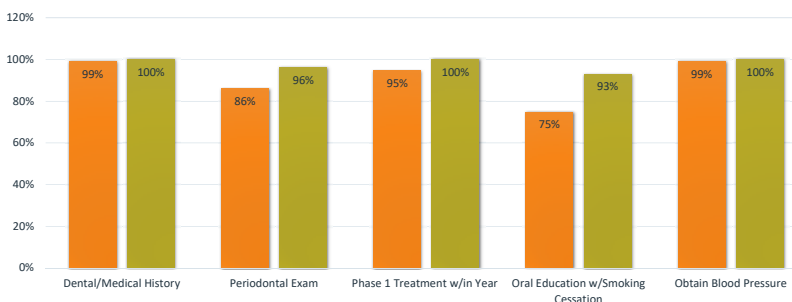
Description of Service

Restorative dental services, oral surgery, root canal therapy, fixed and removable prosthodontics; periodontal services includes subgingival scaling, gingival curettage, osseous surgery, gingivectomy, provisional splinting, laser procedures and maintenance. Oral medication (including pain control) for HIV patients 15 years old or older must be based on a comprehensive individual treatment plan.

Prosthodontics services to HIV infected individuals including but not limited to examinations and diagnosis of need for dentures, crowns, bridgework and implants, diagnostic measurements, laboratory services, tooth extraction, relines and denture repairs.

Emergency procedures will be treated on a walk-in basis as availability and funding allows. Funded Oral Health Care providers are permitted to provide necessary emergency care regardless of a client's annual benefit balance.

Chart Review Highlights- 2019-2020





Harris County
Public Health
Building a Healthy Community

Ryan White Part A, Houston EMA FY20-21 Clinical Care Chart Review Summary of Findings

Review period was March 1, 2020 - February 28, 2021



Chronic Disease



Food Safety



Emergency Preparedness



Environmental Health



Infectious Diseases



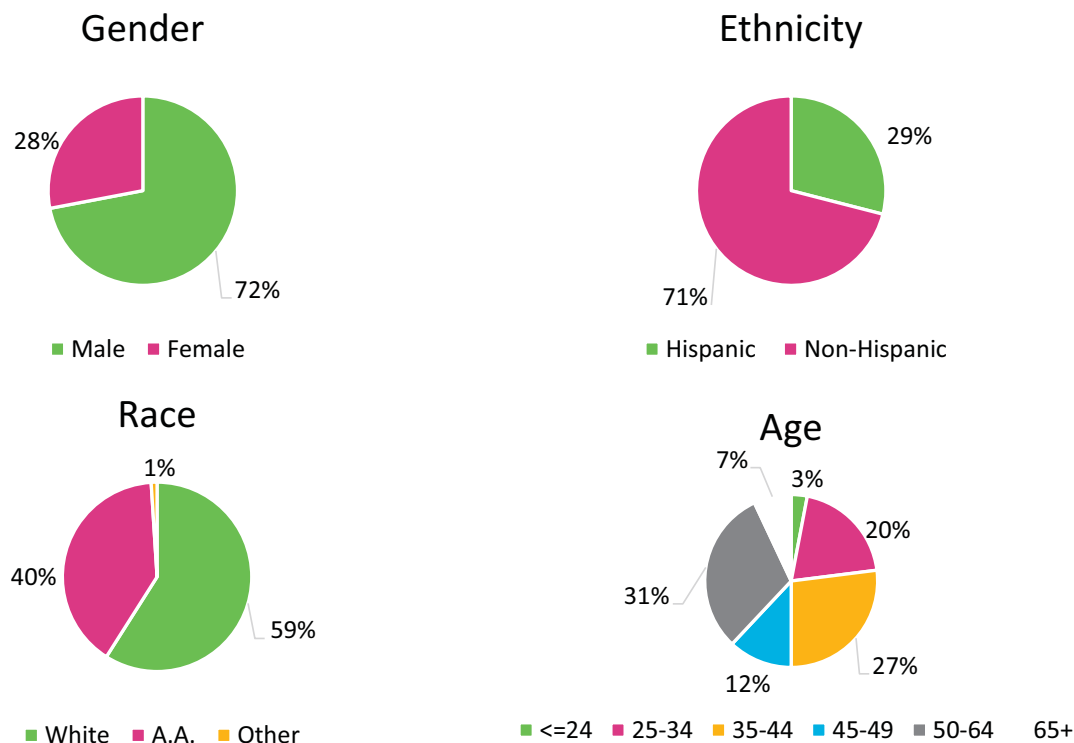
Injury



Social, Mental, and Emotional Wellbeing

Oral Health-Rural Chart Review

- 75 charts reviewed
- Each sample was determined to be comparable to the racial, ethnic, gender and age demographics of each site's overall vision care population



Oral Health-Rural Chart Review

Performance Measure	2020	Performance Measure	2020
Primary Care Provider	100%	Oral Health Education*	99%
Medical/Dental Health History*	76%	Hard Tissue Exam	99%
Medical History 6 month update	93%	Soft Tissue Exam	99%
Vital Signs	100%	Periodontal Screening*	99%
Current Medications	100%	X-Rays Present	99%
CBC Documented	96%	Treatment Plan*	100%
Antibiotic Prophylaxis Given	N/A	Phase I Treatment Plan Completed	44%

*HIV/AIDS Bureau (HAB) Performance Measures

FY 2020 PERFORMANCE MEASURES HIGHLIGHTS

RYAN WHITE GRANT ADMINISTRATION

HARRIS COUNTY PUBLIC HEALTH (HCPH)

Ryan White Part A
HIV Performance Measures
FY 2020 Report

Oral Health Care
All Providers

Clinical Chart Review Measures*	FY 2018	FY 2019
100% of oral health clients will have a dental and medical health history (initial or updated) at least once in the measurement year	100%	99%
90% of oral health clients will have a dental treatment plan developed and/or updated at least once in the measurement year	99%	100%
85% of oral health clients will receive oral health education at least once in the measurement year	99%	99%
90% of oral health clients will have a periodontal screen or examination at least once in the measurement year	97%	94%
50% oral health clients will have a Phase 1 treatment plan that is completed within 12 months	34%	55%

FeedbackRWPC

From: FeedbackRWPC
Sent: Monday, November 28, 2022 11:49 AM
To:
Cc:
Subject: RE: Dental Implants or Dentures at UT School of Dentistry Fwd: Ryan White Dental Funding
Attachments: 16 2324 TRG Houston OralHealth ServCat DRAFT.pdf; 17 Oral Health Targeted to Rural.pdf; TRG SOC Oral Health.pdf; RWGA SOC Oral Health.pdf

Good morning ~

Thank you for the information. Ryan White services are contracted to agencies who apply for the funds which I assume is how the A&M dental school partnership works – it is a contracted service. Currently in Houston, Avenue 360 and St. Hope Foundation are contracted to provide dental services for persons living with HIV. Attached are the service category definitions and standards of care for oral health.

I will forward the information you sent to the Quality Improvement committee to review during the How to Best Meet the Need process which starts in April. If you like I can add you to the meeting notice so that you will be aware of these meetings and can attend, just let me know.

Diane Beck
 Council Coordinator

From:
Sent: Monday, November 28, 2022 5:57 AM
To: FeedbackRWPC@cjo.hctx.net
Cc:
Subject: Dental Implants or Dentures at UT School of Dentistry Fwd: Ryan White Dental Funding

Dear Council

Please consider developing a partnership with UT School of Dentistry like Texas A&M School of Dentistry in Dallas does for all HIV patients needing oral surgeries.

Sincerely

From:
Date: Thu, Nov 17, 2022, 9:33 AM
Subject: Fwd: Ryan White Dental Funding
To:

I am forwarding an email from UT School of Dentistry here in Houston.

----- Forwarded message -----

From

Date: Thu, Nov 17, 2022, 8:55 AM

Subject: Ryan White Dental Funding

To:

Good morning Mr. "XXXXXXXXXX",

We are not in partnership with Ryan White Dental Fund. I did look up some information about Ryan White Dental Fund. There was only one university in Texas that is in partnership Texas A&M University, College Station, TX.

Thanks,

Lead Patient Care Coordinator



*University Dental Center AEGD/GPR Residency Program
6410 Fannin St. | Suite 310 | Houston, TX 77030*



HIV Discrimination, Privacy and Confidentiality: Impact on the Delivery of Oral Healthcare

Presented by:

Helene Bednarsh, BS, RDH, MPH
Dental Director, NEAETC
VP, HIV Dental Alliance

David Reznik, DDS
Chief, Dental Medicine; Director, Oral Health
Center – Infectious Disease Program, Grady
Health System
President, HIV Dental Alliance



Legal Concerns

- HIV Discrimination, Privacy and Confidentiality
- Persons with HIV (PWH) are protected by a variety of state and federal laws against discrimination, especially in places of public accommodation. The 1990 Americans with Disabilities Act codified this as a national mandate to eliminate discrimination against persons with disabilities.
- We will discuss the impact of these on the delivery of oral healthcare.

State Laws on Public Accommodation

This prohibits discrimination based on a person’s disability in access to or treatment in a place of public accommodation.

State statutes usually define a “public accommodation” in more general terms than federal law, such as any business or service establishment that is open to the public and accepts public patronage.

3

What is a public accommodation?



A PUBLIC ACCOMMODATION IS A PRIVATE ENTITY THAT OWNS, OPERATES, OR LEASES TO A PLACE OF BUSINESS OR BUILDINGS THAT ARE OPEN TO THE PUBLIC.



PLACES OF PUBLIC ACCOMMODATION INCLUDE A WIDE RANGE OF ENTITIES, SUCH AS RESTAURANTS, HOTELS, THEATERS, DOCTOR’S OFFICES, DENTIST’S OFFICES, HOSPITALS, RETAIL STORES, HEALTH CLUBS, MUSEUMS, LIBRARIES, PRIVATE SCHOOLS, AND DAY CARE CENTERS.

4



State Laws on Privacy Protection

Provides that “a person shall have a right against unreasonable, substantial or serious interference with his privacy.”

Courts have tried to determine if there is any legitimate business reason for a disclosure; and if so, courts will balance the legitimate reason against the nature and substantiality of the intrusion into privacy.

This law applies to employees as well as patients.

5

Privacy Protection Best Practices

Train all staff and employees on privacy law.

Only staff with direct clinical care should have access to protected medical information

Limit access to protected medical information.

Be cautious in your progress notes but include all information about patient and visit.

Create your own medical records or information release form.

Make sure every record that goes out is inspected.

Be wary of subpoenas. Consult an attorney, consult your patient, get permission to talk to your patient’s attorney.

Prudent to err on the side of requesting an HIV-specific release.

6

Federal Law:

Disability Discrimination Laws

People with HIV are protected under federal laws:

1. The Americans with Disabilities Act (ADA) of 1990
2. The Rehabilitation Act of 1973

7



Definition of a Disability

1. A physical or mental impairment that substantially limits one or more of the major life activities of such individual
2. A record of such impairment
3. Being regarded as having such impairment.

The “regarded as” prong of the definition covers individuals with asymptomatic HIV even if they are not limited in *any* major life activity but, are excluded from services based on the negative perceptions or reactions of others to their physical impairment.

8

What constitutes discrimination?

Discrimination is the failure to give a person with a disability the equal opportunity to use or enjoy the public accommodation's goods, services, or facilities.



Examples of ADA violations would include:

A dentist who categorically refused to treat all persons with HIV or AIDS.

9



The Federal Rehabilitation Act of 1973

In 1987 a clarifying position was added to Section 504.

Section 504 prohibits discrimination against people with disabilities from agencies or programs who receive *federal funds*, including private dental or medical offices and hospitals that accept Medicare or Medicaid.

Only applies to places which receive federal funds. If any program in an institution receives federal funds (even federal research monies), then all programs and employees are covered by the Rehabilitation Act.

10



The Federal Rehabilitation Act of 1973: Enforcement Provisions

Enforcement Provisions are stronger than the ADA. Plaintiffs may obtain injunctive relief, emotional distress, and other compensatory damages.

Punitive damages may be awarded in the jury's discretion to "deter egregious discriminatory conduct."

11

The Americans with Disabilities Act of July 26, 1990

Is a comprehensive federal law aimed at eliminating discrimination against people with disabilities, including people with HIV.

Extended disability discrimination protection to private places of public accommodation.

"Is perhaps the most sweeping civil rights legislation passed since the enactment of the Civil Rights Act of 1965."

Provides "a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities" and picks up where Section 504 left off.

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What is the ADA?

The Americans with Disabilities Act (ADA) gives federal civil rights protections to individuals with disabilities like those provided to individuals based on race, color, sex, national origin, age, and religion. It guarantees equal opportunity for individuals with disabilities in public accommodations, employment, transportation, State and local government services, and telecommunications.

13

ADA Titles I, II, III

The ADA prohibits discrimination against people with disabilities under:



Title I: employers



Title II: state and local governments



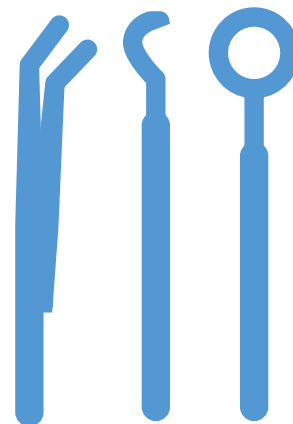
Title III: privately owned businesses referred to as "places of public accommodation"

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ADA Title III

As it applies to dentistry, it is illegal to:

- Deny an HIV-positive person the “full and equal enjoyment” of dental services or to deny an HIV-positive person the “opportunity to benefit” from dental services in the same manner as other patients.
- Establish “eligibility criteria” for the privilege of receiving dental services. These criteria tend to screen out persons who have tested positive for HIV.
- Provide “different or separate” services to patients who are HIV positive or fail to provide services to patients in the most “integrated setting.”
- Deny equal services to a person who is known to have a “relationship” or “association” to a person with HIV, such as a spouse, partner, child, or friend.



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Applying these specific provisions of the ADA to dentistry, the following practices are illegal:



A dentist cannot decline to treat a person with HIV based on a perceived risk of HIV transmission or because the dentist simply does not feel comfortable treating a person with HIV.



A dentist cannot agree to treat a patient only in a treatment setting outside the dentist’s regular office, such as a special hospital dental clinic.



A dentist cannot require that a patient take an HIV test prior to providing dental treatment.

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The ADA requires that referrals of HIV-positive patients be made on the same basis as are referrals for other patients.



Under certain circumstances, it may well be an ADA violation to use unnecessary additional precautions which tend to stigmatize a patient simply on the basis of HIV status.



A dentist cannot limit the scheduled times for treating HIV-positive patients, such as insisting that an HIV-positive patient come in at the end of the day.

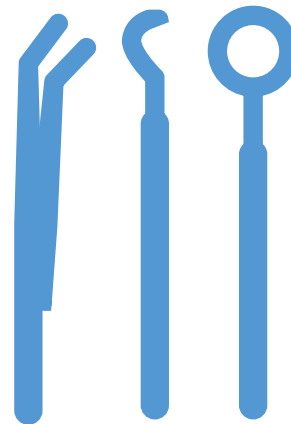
17

ADA Title III

Illegal Referrals and/or Refusals to Treat

In terms of referral, regulations by the United States DOJ state that a healthcare provider may refer a patient with a disability only if:

1. The treatment being sought is outside the referring provider's area of specialization.
2. In the normal course of operations, the referring provider would make a similar referral for an individual without a disability who seeks or requires the same treatment or services.



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Are health care providers required to treat all persons with HIV or AIDS, regardless of whether the treatment being sought is within the provider's area of expertise?



No. A health care provider is not required to treat a person who is seeking or requires treatment or services outside the provider's area of expertise. However, a health care provider cannot refer a patient with HIV or AIDS to another provider simply because the patient has HIV or AIDS.

The referral must be based upon treatment being outside the expertise of the provider. Not the patient's HIV status.

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Example:

A person with HIV goes to the dentist for a prophy. The dentist refers this individual to another dental office because he/she is "not equipped" to treat persons with HIV.

Because there is no special equipment necessary for providing routine dental care to those with HIV/AIDS beyond universal precautions that a provider should use when treating all patients, this "referral" would violate the ADA.



Can a public accommodation charge for reasonable modifications in its policies, practices, or procedures, or for the provision of communication aids and services?

21

No, a public accommodation may not impose a surcharge on an individual with a disability or any group of individuals with disabilities to cover the costs necessary to provide nondiscriminatory treatment.



Direct Threat

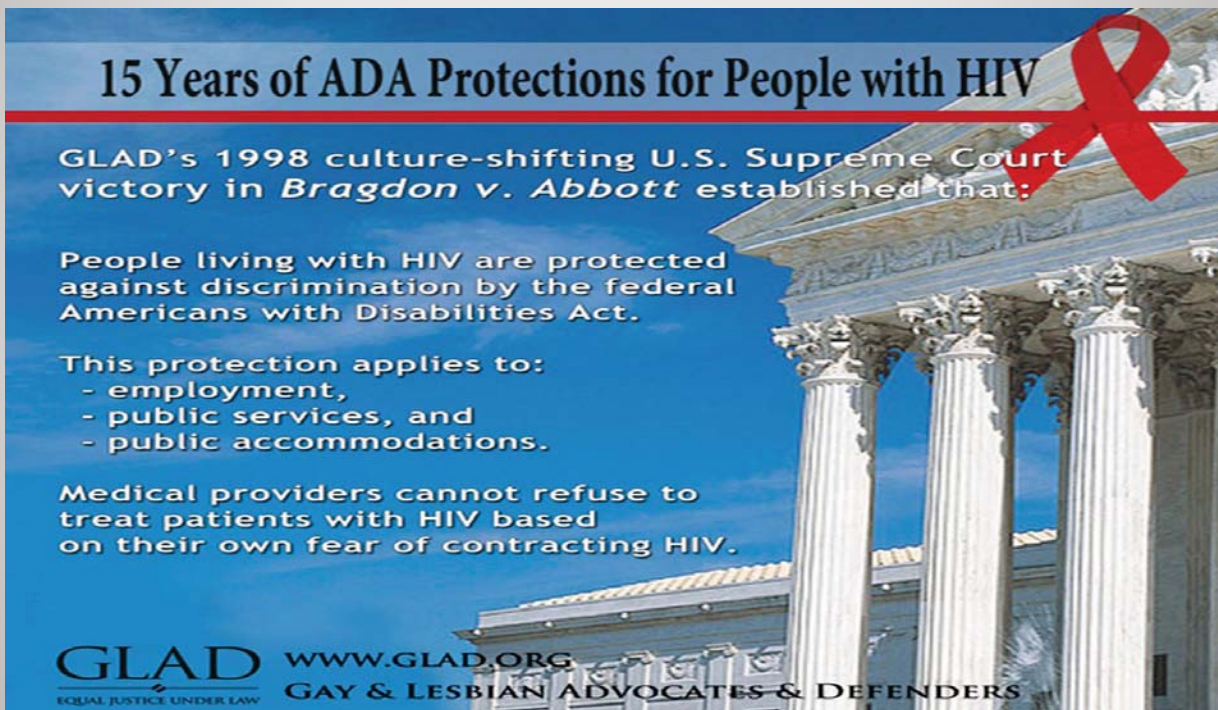
22

A direct threat is defined as a “significant risk to the health and safety of others that cannot be eliminated by a modification of policies, practices, or procedures.”

Assessment of a direct threat is made on the basis of reasonable judgment that relies on current medical knowledge or on the best available objective evidence to:

1. The nature, duration, and severity of the risk.
2. The probability that a potential injury will occur.
3. Whether reasonable modifications to policies, practices, and procedures will mitigate the risk.

The Supreme Court ruling that included HIV, non-AIDS, in the ADA involved a dentist and a patient



15 Years of ADA Protections for People with HIV

GLAD's 1998 culture-shifting U.S. Supreme Court victory in *Bragdon v. Abbott* established that:

People living with HIV are protected against discrimination by the federal Americans with Disabilities Act.

This protection applies to:

- employment,
- public services, and
- public accommodations.

Medical providers cannot refuse to treat patients with HIV based on their own fear of contracting HIV.

GLAD WWW.GLAD.ORG
EQUAL JUSTICE UNDER LAW GAY & LESBIAN ADVOCATES & DEFENDERS

Reliance on Rehabilitation Act

- HIV infection is not included in the list of specific disorders constituting physical impairments, in part because HIV was not identified as the cause of AIDS until 1983. In this case, Congress did more than suggest this construction; it adopted a specific statutory provision in the ADA directing as follows:
- "Except as otherwise provided in this chapter, nothing in this chapter shall be construed to apply a lesser standard than the standards applied under title V of the Rehabilitation Act of 1973 ([29 U.S.C. 790](#) et seq.) or the regulations issued by Federal agencies pursuant to such title." [42 U.S.C. § 12201\(a\)](#).
- The directive requires us to construe the ADA to grant at least as much protection as provided by the regulations implementing the Rehabilitation Act.
- Respondent's claim throughout this case has been that the HIV infection placed a substantial limitation on her ability to reproduce and to bear children. Which was argued as a limitation of a major life activity although that was not on the original HEW list of major life activities when this Act was passed. Reproduction falls well within the phrase "major life activity." Reproduction and the sexual dynamics surrounding it are central to the life process itself. The Act addresses substantial limitations on major life activities, not utter inabilities. Conception and childbirth are not impossible for an HIV victim but, without doubt, are dangerous to the public health. This meets the definition of a substantial limitation.

Review of Significant Cases

United States v. Drew B. Morvant D.M.D.: United States District Court for the Eastern District of Louisiana, March 23, 1995

The court ruled that a general dentist violated the ADA when he referred a patient with HIV to another dentist because of the false belief that routine dental care for a patient with HIV requires a specialist. They agreed with dental experts that no special training, other than that possessed by a general dentist, is required to provide general dental care to patients with HIV. No such specialty is recognized by the dental profession. The court specifically rejected the dentist's argument that he had not kept up with the literature and training necessary to treat patients with HIV. The court specifically noted the extensive educational materials available to dentists and said that Dr. Morvant "chose to ignore the information and in doing so ran afoul of the law as it now stands."

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D.B. v. Howard Bloom, D.D.S.:
United States District Court for the District of New Jersey, August 15, 1995

A federal court in New Jersey ruled that a dentist violated the ADA and New Jersey state law by refusing to treat a patient with HIV and referring him to a "special clinic for HIV," someone "better suited to take care of [his] needs." The court ruled the referral "a pretext for discrimination because no specialized skills are required to treat patients who are HIV-positive." The court also found that as general dentists, the defendants "had sufficient expertise and training to provide general dental care to persons with HIV/AIDS ." In addition, the court found the defendant's actions to be "particularly offensive in light of [the dentists] status as licensed healthcare providers who ought to be aware of and practice universal precautions."

Financial damages were awarded as well as a signage requirement for the waiting room under both the ADA and The Rehabilitation Act

26

State of
Minnesota v.
Clausen (1992)

G.S. v. Karin Baksh,
Illinois Human Rights
Commission July
1994

In a 1992 decision, the Minnesota Supreme Court upheld a finding by the Minnesota Human Rights Commission that a dentist had illegally discriminated against an asymptomatic HIV-positive patient by refusing treatment and referring the patient to the University of Minnesota dental clinic. The court noted that the intended dental procedure was within the dentist's area of expertise and that the dentist would not have made the referral for a person who was not HIV-infected.

In this case a dentist referred a patient to Northeastern University dental clinic, and in so doing violated his rights under provisions of the Illinois Human Rights Commission. They ruled the dentist acted out of "fear and ignorance."

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Castle Dental -
Houston

Was settled with a consent decree to pay compensatory damages for refusal to treat an HIV-positive patient. The agreement included staff training and sending monitoring reports to the DOJ.). The complaint alleges that the Defendants, who lease and operate a chain of dental and orthodontic facilities, have violated title III of the ADA by excluding persons who have tested positive for the Human Immunodeficiency Virus (HIV) from receiving services from there can testify to an event in which a Castle Dental Center employee physically threw him out of the Castle office, despite his being in great pain from an abscessed tooth, because of his HIV.

28

East
Hartford,
CT

In settling a complaint against a dentist for allegedly refusing to treat a patient with AIDS, the dentists agreed to implement a policy that they would not discriminate based on HIV/AIDS. There were civil penalties since this was under the ADA and Section 504 of the Rehab Act

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Woodlawn
Family
Dentistry –
Alexandria VA

Violation of Title III of ADA

Dental Office is a Place of Public Accommodation

United States determined they discriminated against patient when failing to offer the same options in appointment scheduling as offered to other patients.

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Actions

- Woodlawn Family Dentistry shall not discriminate on the basis of disability, including HIV
- They shall not discriminate on appointment scheduling
- They must draft and implement a policy stating that they do not discriminate and once approved by the DOJ, it shall be posted in the waiting area
- Within 60 days and then annually, all employees must be trained on Title III
- They shall pay a civil penalty of \$3,000 to vindicate the public interest

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Night and Day Dental – N. Carolina

- Thursday, June 17, 2021
- Justice Department Settles with North Carolina Dental Offices Over HIV Discrimination
- The Justice Department announced today that it has reached a settlement to resolve a claim that Night and Day Dental Inc. discriminated against a woman with HIV in violation of the Americans with Disabilities Act (ADA).
- Night and Day Dental must pay \$30,000 to the victim of the discrimination.
- In addition, Night and Day Dental must train its staff on the ADA, develop and use a non-discrimination policy, and report and explain to the department every time it either refuses to treat a person with HIV or stops providing treatment after learning of a patient's HIV

Night and Day Dental – N. Carolina

- On March 5, 2019, Night and Day Dental refused to see the Complainant for a new patient routine dental care appointment scheduled for that day after she disclosed on her patient intake forms that she has HIV.
- Night and Day Dental asked the Complainant to provide bloodwork laboratory results it perceived to be related to her HIV status. The Complainant asked the office of her treating physician to fax bloodwork laboratory results to Night and Day Dental.
- After Night and Day Dental reviewed the faxed results, and had the Complainant wait for an extended period, the Complainant was told she could not be seen for her scheduled appointment.
- Night and Day Dental has a policy of requiring certain bloodwork results from patients with HIV before deciding whether to provide care, according to the Justice Department.

**ACTIONS TO
BE TAKEN
BY NIGHT
AND DAY
DENTAL**

**UNDER THE DOJ RULING THERE ARE
GENERAL OBLIGATIONS TO NOT
DISCRIMINATE ON THE BASIS OF HIV OR
IMPOSE ELIGIBILITY REQUIREMENTS
THAT WOULD SCREEN ON PWH**

NON-DISCRIMINATION POLICIES AND PROCEDURES

Night and Day Dental shall submit a draft non-discrimination policy to the United States for its review and approval. Additionally, Night and Day Dental shall amend or remove any existing policies or statements that deny or limit treatment for individuals with HIV, which includes rescinding its policy and practice of routinely requesting bloodwork laboratory results from patients with HIV before providing dental care.

Night and Day Dental shall adopt and implement the non-discrimination policy, and any other new and/or modified policies and practices and shall disseminate a copy of its new and/or modified policies and practices to all employees. Night and Day Dental shall conspicuously post the non-discrimination policy in the reception area and as a link on the company's main webpage

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TRAINING

Night and Day Dental shall provide ADA training within 90 calendar days of the effective and every year thereafter for the Term of this Agreement, to all of its management and employees who interact with new or current patients.

Night and Day Dental shall provide all written or electronic training materials to the United States. The ADA Training shall address:

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Training Continued

Training shall be conducted by an individual or individuals with substantive knowledge of the ADA. Night and Day Dental must get pre-approval of the said individual.

For each session of the ADA Training conducted under this Agreement, Night and Day Dental shall maintain attendance logs reflecting the date of the training, names and titles of attendees, and the attendees' signatures.

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REPORTING

- Initial Regular Report: Must confirm the non-discrimination policy and attach a log of all those trained.
- Subsequent Regular Reports: For the Term of this Agreement, every year on the anniversary of the due date of the Initial Regular Report, and two months before the termination of this Agreement, Night and Day Dental shall submit a Subsequent Regular Report to the Department regarding its compliance with this Agreement.
- Immediate reports are required if services are denied to any PWH indicating the reason for denial or discontinuation of treatment

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Monetary Relief

As mentioned in the settlement, Night and Day Dental shall send a check in the amount of thirty thousand dollars (\$30,000.00) made out to the Complainant. This check is compensation to the Complainant for the effects of the discrimination and the harm she has endured, including, but not limited to, emotional distress

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How have courts and medical experts responded to Courts and medical experts have responded to these arguments in the following ways: these arguments?

- **Treating People with HIV is Dangerous”** — Doctors and dentists may claim that a refusal to treat a patient with HIV is legitimate because they fear they might contract HIV themselves through needle sticks or other exposures to blood.
- However, studies of health care workers have concluded that risk of contracting HIV from occupational exposure is minuscule, especially with the use of standard precautions.

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How have courts and medical experts responded to these arguments?

Courts and medical experts have responded to these arguments in the following ways:

- For this reason, in 1998, the United States Supreme Court ruled in the case *Bragdon v. Abbott* that health care providers cannot refuse to treat people with HIV based on concerns or fears about HIV transmission. In addition to the legal perspective, both the American Medical Association and the American Dental Association, and many other professional health care organizations, have issued policies that it is unethical to refuse treatment to a person with HIV.

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How have courts and medical experts responded to these arguments?

Courts and medical experts have responded to these arguments in the following ways:

- **“Treating People with HIV Requires Special Expertise”** — In these cases, the merits of a discrimination claim depend upon whether, based on objective medical evidence, the services or treatment needed by the patient require a referral to a specialist or are within the scope of services and competence of the provider. In *United States v. Morvant*, a federal trial court rejected a dentist’s claim that patients with HIV require a specialist for routine dental care.

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How have courts and medical experts responded to these arguments?

Courts and medical experts have responded to these arguments in the following ways:

- The court agreed with the testimony of experts who said that no special training or expertise, other than that possessed by a general dentist, is required to provide dental treatment to people with HIV. The court specifically rejected the dentist's arguments that he was unqualified because he had not kept up with the literature and training necessary to treat patients with HIV. While this case arose in the context of dental care, it is applicable to other medical settings as well.

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- By refusing to provide dental services to the Complainant because she has HIV, and by requiring the Complainant, as a condition of service, to provide bloodwork laboratory results the practice perceived to be related to her HIV, Night and Day Dental discriminated against her on the basis of disability in the full enjoyment of the dental practice's goods, services, facilities, privileges, advantages or accommodations.

- By turning away the Complainant, and any other prospective patients with HIV, Night and Day Dental imposed eligibility criteria that screen out or tend to screen out individuals with HIV.

- Turning away patients with HIV or requiring them to provide information that is not medically recommended creates unfair barriers to healthcare for people with HIV," said Kristen Clarke, assistant attorney for the Justice Department's Civil Rights Division. "The ADA requires healthcare providers to treat patients based on current medical knowledge about their particular health conditions, and not based on stereotypes or misconceptions about a disability."
- The Justice Department is committed to ensuring that people with HIV do not face discrimination in health care settings or other areas of life."

Medical Implications

- Night and Day Dental has a policy and practice of requesting bloodwork laboratory results only from patients with HIV in order to review the absolute neutrophil count (ANC) before providing dental care, which Night and Day Dental states is to assess whether to provide an antibiotic prophylaxis prior to dental treatment. This request is typically made after a patient with HIV arrives for a new patient appointment and before providing care.

Medical Implications

- There are just a few health conditions for which antibiotic prophylaxis prior to dental treatment is recommended, as confirmed by the American Dental Association. Having HIV is not one of them.
- Night and Day Dental acknowledged to the Department of Justice that if a patient with HIV does not provide ANC results, this is not a reason not to be seen, stating as follows with respect to the Complainant: “The patient’s medical history states [the Complainant] has HIV/AIDS and we request patients provide a copy of their most recent labs to determine if an antibiotic premedication is needed prior to treatment, but lack of labs is not a reason to not be seen.”

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NEAETC Online HIV Resource Library

- NEAETC’s [HIV Resource Library](#) is a compilation of curated information resources and education packets on HIV, viral hepatitis, and related public health topics.



[Change text & URL for topic(s) of presentation. Text can also be pasted into webinar chat.]

- Information resources on PrEP are available at <https://www.neaetc.org/p/pre-exposure-prophylaxis-prep-orl-page>.

National AETCs: NCRC

National Coordinating Resource Center

François-Xavier Bagnoud Center, Rutgers School of Nursing

- Centralizes free training and clinical materials through a virtual library: aidsetc.org
- Maintains the AETC Program Directory
- Fosters collaboration and group facilitation among AETCs and with external partners
- Provides AETC Program promotional, marketing and communications services
- Coordinates the annual Ryan White HIV/AIDS Program Clinical Conference

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