

## LEGAL CONSIDERATIONS FOR EXPEDITED PARTNER THERAPY IN URGENT CARE

Alan A. Ayers, MBA, MAcc is Chief Executive Officer of Velocity Urgent Care and is Practice Management Editor of *The Journal of Urgent Care Medicine*.

**Urgent message:** Expedited Partner Therapy enables a provider, when treating a patient for a sexually transmitted infection, to give a second prescription for the patient's partner without having to examine the partner.

### Introduction

Expedited Partner Therapy (EPT) is the clinical practice of treating the sex partners of patients diagnosed with sexually transmitted diseases by providing prescriptions to the patient for his or her partner without the healthcare provider first examining the partner.<sup>1</sup>

Initially developed to help control syphilis, EPT became widely recognized to treat gonorrhea, chlamydial infection, and, most recently, human immunodeficiency virus (HIV) infection.<sup>2</sup> The CDC reviewed multiple studies on EPT and concluded that EPT is a "useful option" to further partner treatment, particularly for male partners of women with chlamydia or gonorrhea.<sup>2</sup> To that end, in August 2006 the CDC recommended the practice of EPT for certain populations and specific conditions; the CDC continues to recommend it in *Sexually Transmitted Diseases Treatment Guidelines, 2010*.<sup>3</sup>

Here, we discuss the legal considerations when issuing a script to a patient a provider has never examined.

### Legal Issues

The CDC has stated that the legal status of EPT remains an area of uncertainty.<sup>4</sup> At the same time, the CDC has attempted to assist state and local STD programs in their efforts to implement EPT as an additional partner services tool, and has collaborated with the Center for Law and the Public's Health at Georgetown University and Johns Hopkins University to assess the legal framework concerning EPT across all 50 states and other jurisdictions.<sup>4</sup>

Expedited Partner Therapy is permissible in 44 states, and *potentially* allowable in five states (Alabama, Kansas, New Jersey, Oklahoma, and South Dakota).<sup>1</sup> It is prohibited in one state (South Carolina).<sup>4</sup>

Given this broad spectrum of application of EPT, there will be specific requirements in each state that permits this practice, as the regulation of these programs is at the state level.

### Record keeping

Questions may arise concerning what is required for charting the prescription since the physician never examined the partner. For example, in Wisconsin, a 2009 law permits the prescription to be written in the partner's name—which is preferred—or with "Expedited Partner Therapy" or "EPT" in place of a name when the patient doesn't know or won't divulge the partner's name. The law also requires that written materials be developed by the Department of Health Services and be distributed to the patient by the medical provider, for use by the partner(s) receiving EPT.<sup>5</sup>

In Maine, pharmacists should document patient EPT prescriptions like any other noncontrolled substances prescriptions.<sup>6</sup> New York has the same requirements, and a separate prescription must be provided for each partner, but providers shouldn't prescribe treatment for a partner by adding extra doses of medication to an index (original) patient's prescription.<sup>4</sup>

New York law also stipulates that healthcare providers or pharmacists who prescribe or dispense drugs in accordance with the state's EPT law and regulations won't be held legally or professionally liable.<sup>7</sup> Wisconsin has a similar protection.<sup>5</sup>

### Common exemptions or limitations

In New York City, EPT may not be given if the index patient is coinfecting with gonorrhea or syphilis because the medication used doesn't adequately treat gonorrhea or syphilis. The Department of Health states that "coinfecting partners could be mistakenly reassured by treatment and not seek care for these other infections."<sup>8</sup> That agency prohibits EPT when the index

### Login

Username

Password

Remember Me

[Lost Password](#)

patient is coinfecting with HIV and is not recommended for men who have sex with men.<sup>7,8</sup> Also, in New York City, EPT is not recommended if it would put the index patient's or partner's safety at increased risk.<sup>8</sup>

#### Notification requirements

As with all aspects of EPT, individual states have the legal authority for the notification and referral of partners of persons with STDs. Typically, there is no change to the reporting requirements for healthcare providers. In New York State, physicians are still required by law to report cases to the local health officer<sup>9</sup> and cooperate with state and local health officials' efforts to determine the source and to control the spread of sexually transmitted disease.<sup>10,11</sup> New York City advises physicians when reporting to specify whether EPT was used to treat the partners of the reported case, and if so, the number of partners for whom medication was dispensed or prescriptions written.<sup>4</sup> The department also says that partner names should not be provided.<sup>4</sup>

#### HIPAA

The requirements of the Health Insurance Portability and Accountability Act of 1996 will apply to healthcare providers who practice EPT. For example, Wisconsin states that a pharmacist is a "healthcare provider" as defined in Wis. Stats. § 146.81(1) and is required to comply with state laws regarding confidentiality of patient healthcare records.<sup>12</sup>

Some states have no limit to the number of partners that can receive EPT for a given index patient. In Wisconsin, the EPT program allows for the treatment of all of a patient's partners. The rationale behind this is that the "[t]reatment of all affected partners will reduce the risk of transmission and re-infection."<sup>12</sup> However, New York limits doses to the number of known sex partners in the previous 60 days.<sup>7</sup>

The only appellate-level case concerning EPT found in researching this article comes from Connecticut, where the Supreme Court held that a physician who mistakenly informed the patient that he did not have herpes could be held liable in ordinary negligence to the patient's exclusive sexual partner for her resulting injuries. The Court opined that because the physician knew that the patient sought testing and treatment for the express benefit of that partner, he owed a duty of care to the partner even though she was not his patient.<sup>13</sup>

#### TAKEAWAY

EPT has been found to be an effective and practical strategy for treating the sex partners of individuals with certain sexually transmitted diseases. EPT programs and their eligibility requirements are regulated by the states. Check with your state department of health and licensing boards for specific rules in your jurisdiction.

#### Policy Statements on Expedited Partner Therapy

<p>Centers for Disease Control and Prevention</p> <p><a href="https://www.cdc.gov/std/ept/default.htm">https://www.cdc.gov/std/ept/default.htm</a></p>	<p>CDC has concluded that <b>EPT is a useful option to facilitate partner management, particularly for treatment of male partners of women with chlamydial infection or gonorrhea.</b> Although ongoing evaluation will be needed to define when and how EPT can be best utilized, the evidence indicates that EPT should be available to clinicians as an option for partner treatment. EPT represents an additional strategy for partner management that does not replace other strategies such as provider-assisted referral, when available.</p>
<p>American Academy of Family Physicians</p> <p><a href="https://www.aafp.org/about/policies/all/partner-therapy.html">https://www.aafp.org/about/policies/all/partner-therapy.html</a></p>	<p>The American Academy of Family Physicians (AAFP) supports EPT according to current CDC recommendations. Clinicians should determine state law requirements for EPT. (2012 COD) (2017 COD).</p>
<p>Society for Adolescent Medicine and American Academy of Pediatrics</p> <p><a href="https://www.jahonline.org/article/S1054-139X(09)00205-5/fulltext">https://www.jahonline.org/article/S1054-139X(09)00205-5/fulltext</a></p>	<p>The Society for Adolescent Medicine (SAM) recommends that providers who care for adolescents should do the following: use EPT as an option for STI care among chlamydia- or gonorrhea-infected heterosexual males and females who are unlikely or unable to otherwise receive treatment; through SAM and AAP chapters, collaborate with policy makers to remove EPT legal barriers and facilitate reimbursement; and collaborate with health departments for implementation assistance.</p>

## Sign Up For The JUCM Newsletter

Urgent care clinical, practice management, and curated news stories - delivered to your inbox - every Tuesday.



**SIGN UP**

American Bar Association

<https://www.cdc.gov/std/ept/onehundredsixteena.authcheckdam.pdf>

RESOLVED, that the American Bar Association urges states, territories, and tribes to support the removal of legal barriers to the appropriate use by healthcare providers of EPT, applied as specified in protocols promulgated by the U.S. Centers for Disease Control and Prevention, in the treatment of those sexually transmitted diseases identified in the evidence-based recommendations of the CDC and the policy statements of the American Medical Association (adopted June 2006).

## References

1. U.S. Department of Health & Human Services. Centers for Disease Control and Prevention. *Legal Status of Expedited Partner Therapy (EPT)*. Available at: <https://www.cdc.gov/std/ept/legal/default.htm>. Accessed December 5, 2019.
2. American College of Obstetricians and Gynecologists, Committee on Gynecologic Practice. *ACOG Committee Opinion. Number 737 (June 2018)*. Available at: <https://www.acog.org/Clinical-Guidance-and-Publications/Committee-Opinions/Committee-on-Gynecologic-Practice/Expedited-Partner-Therapy?IsMobileSet=false>. Accessed December 5, 2019.
3. U.S. Department of Health and Human Services Public Health Service. Centers for Disease Control and Prevention. *Expedited Partner Therapy in the Management of Sexually Transmitted Diseases (2006)*. Available at: <https://www.cdc.gov/std/treatment/EPTFinalReport2006.pdf/>. Accessed December 5, 2019.
4. Tomlinson BC. *Expedited Partner Therapy: Advancing Health Policy in Kentucky*. University of Louisville. Doctor of Nursing Practice Papers School of Nursing (August 2019). Available at: [https://ir.library.louisville.edu/cgi/viewcontent.cgi?article=1028&=&context=dnps&=&seiredir=1&referer=https%253A%252F%252Fscholar.google.com%252Fscholar%253Fas\\_ylo%253D2015%2526q%253D%252522Expedited%252BPartner%252BTherapy%252](https://ir.library.louisville.edu/cgi/viewcontent.cgi?article=1028&=&context=dnps&=&seiredir=1&referer=https%253A%252F%252Fscholar.google.com%252Fscholar%253Fas_ylo%253D2015%2526q%253D%252522Expedited%252BPartner%252BTherapy%252). Accessed December 5, 2019.
5. State of Wisconsin Department of Safety and Professional Services. *Pharmacy Examining Board Position Statements (Revised April 15, 2013)*. Available at: <https://dps.wi.gov/Pages/BoardsCouncils/Pharmacy/PositionStatements.aspx>, citing Wis. Stat. § 146.82.
6. Maine Center for Disease Control and Prevention. *Expedited Partner Therapy (EPT) Frequently Asked Questions (November 2015)*. Available at: <https://www.maine.gov/dhhs/mecdc/infectious-disease/hiv-std/ept/documents/EPT-FAQ.pdf>.
7. New York State Department of Health, *Expedited Partner Therapy Guidelines for Health Care Providers in NYS for Chlamydia Trachomatis* and NY Public Health Law 10 NYCRR §23.5.
8. Schillinger J, Jamison K, Slutsker J, et al. STI and HIV infections among MSM reporting exposure to gonorrhea or chlamydia: implications for expedited partner therapy. *95 Sexually Transmitted Infections*. A107 (2019). Available at: [https://sti.bmj.com/content/95/Suppl\\_1/A107.1](https://sti.bmj.com/content/95/Suppl_1/A107.1). Accessed December 5, 2019.
9. NYS Public Health Law § 2101; NYCRR § 2.10.
10. New York State Department of Health, *Expedited Partner Therapy Guidelines for Health Care Providers in NYS for Chlamydia Trachomatis*. (Revised August 2019). Available at: [https://www.health.ny.gov/diseases/communicable/std/ept/guidelines\\_for\\_providers.htm](https://www.health.ny.gov/diseases/communicable/std/ept/guidelines_for_providers.htm). Accessed December 5, 2019.
11. Estcourt C, Sutcliffe L, Cassell J, et al. Can we improve partner notification rates through expedited partner therapy in the UK? Findings from an exploratory trial of Accelerated Partner Therapy (APT). *88 Sex Transm Infect*. 21-26 (July 27, 2012). Available at: [https://www.researchgate.net/publication/51526852\\_Can\\_we\\_improve\\_partner\\_notification\\_rates\\_through\\_expedited\\_partner\\_therapy\\_in\\_the\\_UK\\_Findings\\_from\\_an](https://www.researchgate.net/publication/51526852_Can_we_improve_partner_notification_rates_through_expedited_partner_therapy_in_the_UK_Findings_from_an).
12. State of Wisconsin Department of Safety and Professional Services, *Pharmacy Examining Board Position Statements*, citing Wis. Stat. § 146.82.
13. *Doe v Cochran*. 332 Conn. 325, 327, 210 A.3d 469, 472 (2019).



### Alan A. Ayers, MBA, MAcc

Chief Executive Officer of Velocity Urgent Care, LLC and is Practice Management Editor of The Journal of Urgent Care Medicine