

# Arkansas

## Introduction and Table of Contents

April 8, 2011

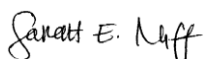
To the Reader:

The *Compendium of State HIV Testing Laws* describes key state HIV testing laws and policies. Each state's HIV testing laws are unique and many have undergone revision or supplementation since the release of the [CDC's 2006 HIV testing recommendations](#). The *Compendium* is designed to help clinicians understand HIV testing laws and to implement sound HIV testing policies. It should not, however, be used as an official legal document.

The NCCC provides clinical consultation for healthcare providers as part of the HRSA [AIDS Education and Training Centers](#) program. Clinicians with questions about HIV testing are encouraged to call the *National HIV Telephone Consultation Service (Warmline)* at **(800) 933-3413**. The Warmline also provides advice on HIV management, including antiretroviral treatment. Other NCCC consultation services include: the National Clinicians' Post-Exposure Prophylaxis Hotline ([PEPLine](#)) at **(888) 448-4911** for advice on managing occupational exposures to HIV and hepatitis; and the National Perinatal Consultation and Referral Service ([Perinatal HIV Hotline](#)) at **(888) 448-8765** for consultation on preventing mother-to-child transmission of HIV.

We update the *Compendium* periodically, but it is beyond the scope of the project to perform updates and verification concurrent with all changes. We encourage readers to send updates (with citations when possible) and comments to Sarah Neff at [neffs@nccc.ucsf.edu](mailto:neffs@nccc.ucsf.edu).

Thank you,



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Director of Research and Evaluation

&



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The Warmline, PEPLine, and Perinatal Hotline are part of the National HIV/AIDS Clinicians' Consultation Center (NCCC) based at San Francisco General Hospital/ UCSF. The NCCC is a component of the **AIDS Education and Training Centers (AETC) Program** funded by the Ryan White CARE Act of the **Health Resources and Services Administration (HRSA)** HIV/AIDS Bureau in partnership with the **Centers for Disease Control and Prevention (CDC)**.

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## Definitions and Helpful Resources

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### Definitions Commonly Used Nationally

- **Anonymous Testing** – Patient’s name is not recorded with test results.
- **Confidential** – Patient’s name is recorded with test results.
- **HIV Prevention Counseling** – Refers to an interactive process of assessing risk, recognizing specific behaviors that increase the risk for acquiring or transmitting HIV and developing a plan to take specific steps to reduce risks.<sup>1</sup>
  - **Pre-test counseling** can include: (1) discussing HIV, risk factors and prevention methods; (2) explaining the meaning of positive and negative test results and their implications; (3) assessing the patient’s personal and social supports; (4) determining the patient’s readiness to cope with test results; (5) discussing disclosure of test results to others; and (6) advising the patient if reporting positive test results to health authorities is required.
  - **Post-test counseling** can include: (1) informing the patient of the results and meaning of the test results; (2) providing education about avoiding risks of sexual and injection drug exposures; and, for patients who test positive, (3) assessing the impact of test results for the patient and family; (3) explaining treatment options; (4) discussing partner counseling and disclosure of test results to others; and (5) initiating a support and treatment plan.
- **General Consent** – Consent for HIV screening is included in the general medical consent.
- **HIV** – Human Immunodeficiency Virus.
- **Informed Consent** – A process of communication between patient and provider through which an informed patient can choose whether to undergo HIV testing or decline to do so. Elements of informed consent typically include providing oral or written information regarding HIV, the risks and benefits of testing, the implications of HIV test results, how test results will be communicated, and the opportunity to ask questions.<sup>1</sup>
- **Name-based reporting** – Cases are reported by patient name (required in all states except HI and VT).
- **Opt-in** – Patients typically are provided pre-HIV test counseling and must consent specifically to an HIV-antibody test, either orally or in writing.<sup>2</sup>
- **Opt-out** – Performing HIV screening after notifying the patient that: the test will be performed; and the patient may elect to decline or defer testing. Assent is inferred unless the patient declines testing.<sup>1</sup>
- **Routine Testing** – HIV screening that is performed routinely during health-care encounters.
- **Rapid Testing** – Testing with any of the six FDA-approved rapid HIV tests that produce results in 30 minutes or less.<sup>3</sup>
- **Specific Consent** – Consent for the HIV screening is separate from the general medical consent.

### Helpful Resources

**CDC Recommendations and Guidelines:** <http://www.cdc.gov/hiv/topics/testing/guideline.htm>

**Emergency Department Implementation Guide:** <http://edhivtestguide.org/>

**Prenatal HIV Testing Website:** <http://www.cdc.gov/hiv/topics/perinatal/1test2lives/>

**For questions or comments about the compendium, contact NCCC:** [neffs@nccc.ucsf.edu](mailto:neffs@nccc.ucsf.edu)

**Clinicians with questions about HIV testing can call the Warmline at 800-933-3413.**

<sup>1</sup> Revised Recommendations for HIV Testing of Adults, Adolescents, and Pregnant Women in Health-Care Settings. MMWR Recomm Rep. 2006 Sep 22;55(RR-14):1-17; quiz CE1-4. <http://www.cdc.gov/mmwr/preview/mmwrhtml/rr5514a1.htm>

<sup>2</sup> <http://www.cdc.gov/mmwr/PDF/wk/mm5145.pdf>

<sup>3</sup> <http://www.cdc.gov/hiv/topics/testing/resources/factsheets/rt-lab.htm>

# Arkansas

## A Quick Reference Guide for Clinicians to Arkansas HIV Testing Laws

April 8, 2011

This Quick Reference Guide for clinicians is a summary of relevant Arkansas state HIV testing laws. Note that if a section in this Quick Reference Guide reads “no specific provisions were found,” provisions actually might exist for this topic within the state’s statutes, codes, or rules and regulations, but probably are not essential to clinicians.

For a more complete synopsis of Arkansas HIV testing laws, please refer to the section of the Compendium that follows this Quick Reference Guide.

### Informed Consent

- Informed consent is not required for diagnosis (see *State Policies Relating to HIV Testing, 2011*, below). Informed consent is not specified for screening. Compatible with CDC Recommendations and Guidelines.

### Counseling

- Counseling must be offered in cases of health care worker exposure.

### Provisos of Testing

- **Anonymous**
  - No specific provisions regarding anonymous testing were found.
- **Rapid**
  - No specific provisions regarding rapid testing were found.
- **Routine**
  - No specific provisions regarding routine testing were found.

### Disclosure

- Notification to sexual partners of possible exposure to HIV is required.

### Minor/Adolescent Testing

- Minors may consent to STD testing, HIV not explicitly included.

# Arkansas

## ***Perinatal Quick Reference Guide:***

### **A Guide to Arkansas Perinatal HIV Testing Laws for Clinicians**

April 8, 2011

This Perinatal Quick Reference Guide for clinicians is a summary of relevant Arkansas perinatal state HIV testing laws. Note that if a section in this Quick Reference Guide reads “no specific provisions were found,” provisions actually might exist for this topic within the state’s statutes, codes, or rules and regulations, but probably are not essential to clinicians.

For a more complete synopsis of Arkansas HIV testing laws, please refer to the corresponding section of the *State HIV Testing Laws Compendium* ([www.nccc.ucsf.edu](http://www.nccc.ucsf.edu)), “Testing of pregnant women and/or newborns.”

#### **Prenatal**

- **Initial visit**
  - Physicians attending pregnant women must test or cause to test for HIV upon first examination.
  - Others attending pregnant women must test or cause to test for HIV.
  - Consent procedure not specified.
- **Third trimester**
  - No specific provisions regarding third trimester prenatal testing were found.

#### **Labor & Delivery**

- Physicians attending pregnant women must test or cause to test for HIV if not tested prenatally.
- Others attending pregnant women must test or cause to test for HIV if not tested prenatally.

#### **Neonatal**

- No specific provisions regarding neonatal testing were found.

#### **Other**

- **Counseling**
  - Persons attending pregnant women must
    - inform each pregnant woman of the fact that HIV may be transmitted from an infected mother to the fetus or unborn child and that these infections may be prevented if the maternal infection is recognized and treated; and
    - provide counseling and instruction for HIV in a manner prescribed by the Division of Health of the Department of Health and Human Services based upon contemporary state and federal standards.

# Arkansas

## State Policies Relating to HIV Testing, 2011

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#### Arkansas Code Annotated [ACA]

**Title 12: Law Enforcement, Emergency Management, and Military Affairs**...Page 3

**Title 16: Practice, Procedures, and Courts** ..... Pages 4-5

**Title 20: Public Health and Welfare**..... Pages 6-13

#### Arkansas Administrative Rules [AAR]

**Title 7: Department of Health**..... Pages 14-16

	Policy Category	Type	Section Code(s)	
RESTRICTIONS/MANDATES	Restrictions on use of HIV test	No related laws found		
	Mandatory testing within the criminal justice system	Potential transmission to victims	ACA § 16-82-101	
		Persons convicted with a sex offense; juveniles included	ACA § 16-82-101	
		All inmates upon their release from prison	ACA § 12-29-112	
	Mandatory testing outside of the criminal justice system	Blood/organ/anatomical donations	ACA § 20-27-302	
Consent not required for testing in cases of occupational exposure – health care providers and facility employees		ACA § 20-13-1502 ACA § 20-9-311 ACA § 20-15-905		
PRE-TESTING	Mandatory offering of HIV/AIDS information and/or testing	State must sponsor free HIV testing throughout state	ACA § 20-15-901	
	Informed consent	Informed Consent is not required for diagnosis, not specified for screening.	ACA § 20-15-905	
	Counseling requirements	HIV counseling must be offered to sex offense victims		ACA § 16-82-101
		Counseling on HIV will be provided by state		ACA § 20-15-902
		Counseling must be offered in cases of health care exposure		ACA § 20-15-905
		Department will offer counseling to inmates who test HIV-positive upon their release		ACA § 16-93-1402 ACA § 12-29-112

		from prison	
	Anonymous testing	No related laws found; anonymous testing available	
POST-TESTING	Disclosure/confidentiality	Partner notification	ACA § 20-27-302
		HIV test results as confidential	ACA § 20-15-904
	Reporting	Name-based reporting	ACA § 20-15-904 ACA § 20-15-906 AAR 007.15.04-001 Sec III, IV, V
OTHER	Testing of pregnant women and/or newborns	Physicians, upon first examination, and others attending pregnant women must test or cause to test for HIV as early as possible in the pregnancy or at labor and delivery; consent procedure not specified.	ACA § 20-16-507 AAR 007.15.04-001 Sec XXI
	Testing of minors/adolescents	Minors may consent to treatment for venereal diseases, HIV not explicitly included	ACA § 20-16-508
		Physicians may, but are not required to, inform parents or guardians	ACA § 20-16-508
	Rapid HIV testing	No related laws found	
	Training and education of health care providers	No related laws found	

### Recommended Resources

#### Arkansas Code

<http://170.94.58.9/NXT/gateway.dll?f=templates&fn=default.htm&vid=blr:code>

#### Arkansas Administrative Rules

[http://www.sosweb.state.ar.us/rules\\_and\\_regs/index.php/rules/search/new](http://www.sosweb.state.ar.us/rules_and_regs/index.php/rules/search/new)

#### Arkansas Department of Health

<http://www.healthylarkansas.com/>

#### Rules and Regulations Pertaining to Communicable Disease

<http://170.94.37.152/REGS/007.15.04-001F.pdf>

**Title 12: Law Enforcement, Emergency Management, and Military Affairs**

<b>AR Title 12 Code §</b>	<b>Code Language</b>
§ 12-29-112	<p><b>Discharge or release</b></p> <p>(a) Inmates released upon completion of their term or released on parole shall be supplied with satisfactory clothing and a travel subsidy as prescribed by the Board of Corrections.</p> <p>(b) Upon release of any inmate from any unit or center of the Department of Correction, the department shall provide transportation for the inmate to the closest commercial transportation pick-up point.</p> <p>(c) Before the release of an inmate from any unit or center of the department, the department shall provide:</p> <ul style="list-style-type: none"><li>(1) testing or screening of the inmate for Human ImmunodeficiencyVirus (HIV); and</li><li>(2) counseling regarding treatment options if the inmate tests positive for Human Immunodeficiency Virus (HIV).</li></ul>

<b>Title 16: Practice, Procedures, and Courts</b>
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AR Title 16 Code §	Code Language
§ 16-82-101	<p><b>Testing for human immunodeficiency virus -- Sexual offenses</b></p> <p>(a) A person with Acquired Immunodeficiency Syndrome (AIDS) or who tests positive for the presence of Human Immunodeficiency Virus (HIV) antigen or antibodies is infectious to others through the exchange of body fluids during sexual intercourse and through the parenteral transfer of blood or blood products and under these circumstances is a danger to the public.</p> <p>(b) (1) Any person arrested and charged with violating §§ 5-14-103, 5-14-110, 5-14-124 -- 5-14-127, 5-26-202, and 5-70-102 may be required by the court having jurisdiction of the criminal prosecution, upon a finding of reasonable cause to believe that the person committed the offense and subject to constitutional limitations, to be tested for the presence of HIV or any antibody to HIV, unless the court determines that testing the defendant would be inappropriate and documents the reasons for that determination in the court record.</p> <p>(2) The test shall be confidentially administered by a licensed physician, the Department of Health, or a local health department.</p> <p>(c) (1) If the victim or person with whom the defendant engaged in sexual penetration during the course of the crime consents, the court shall provide the person or agency administering the test with the name, address, and telephone number of the victim or person with whom the defendant engaged in sexual penetration during the course of the crime.</p> <p>(2) After the defendant is tested as to the presence of HIV or an antibody to HIV, the person or agency administering the test shall immediately provide the test results to the victim or person with whom the defendant engaged in sexual penetration during the course of the crime, and shall refer the victim or other person for appropriate counseling.</p> <p>(d) (1) It shall be mandatory that upon request of the victim, and conviction of the defendant, a court of competent jurisdiction shall order the convicted person to submit to testing to detect in the defendant the presence of the etiologic agent for acquired immunodeficiency syndrome or human immunodeficiency virus.</p> <p>(2) For purposes of this subsection:</p> <p>(A) The term "convicted" includes adjudicated under juvenile proceedings; and</p> <p>(B) The term "sexual offense" shall mean those offenses enumerated in subdivision (b)(1) of this section.</p> <p>(3) The testing of a person convicted of a sexual offense as enumerated in subdivision (b)(1) of this section shall be conducted by the Arkansas Department of Health upon an order of a circuit court.</p> <p>(4) The results of any tests performed pursuant to this subsection shall immediately be released to the victim and to the defendant; otherwise, the results of any tests performed shall be confidential and not subject to</p>



<b>AR Title 16 Code §</b>	<b>Code Language</b>
	<p>disclosure as public information under the Freedom of Information Act, § 25-19-101 et seq.</p> <p>(5) Any victim of a sexual offense as enumerated in subdivision (b)(1) of this section shall, upon request of the victim, receive:</p> <ul style="list-style-type: none"> <li>(A) Appropriate counseling;</li> <li>(B) Human immunodeficiency virus testing; and</li> <li>(C) Referral or delivery for appropriate health care and support services.</li> </ul>
§ 16-93-1402	<p><b>Notice to probation or parole officer</b></p> <p>(a) The purpose of this subchapter is to provide probation and parole officers with information so they can make informed programming decisions and direct offenders to autoimmune deficiency syndrome-related resources, including appropriate financial, housing, legal, medical, and counseling services.</p> <p>(b) Upon the release of an offender from a correctional institution, a medical representative of the institution shall notify the offender's parole or probation officer when the offender has tested positive for infection with HIV, or has been diagnosed as having autoimmune deficiency syndrome or autoimmune deficiency syndrome-related conditions.</p> <p>(c) Information obtained by a parole or probation officer pursuant to this subchapter shall be confidential and shall not be disclosed except as specifically authorized by this subchapter.</p>

<b>Title 20: Public Health and Welfare</b>
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AR Title 20 Code §	Code Language
§ 20-9-311	<p><b>Findings</b></p> <p>(a) The General Assembly finds that:</p> <p>(1) Numerous workers who are occupationally exposed to blood-borne pathogens have contracted fatal and other serious viruses and diseases, including the human immunodeficiency virus (HIV), hepatitis B, and hepatitis C, from exposure to blood and other potentially infectious materials in their workplaces;</p> <p>(2) In 1991, the Occupational Safety and Health Administration issued a standard regulating occupational exposure to blood-borne pathogens including the human immunodeficiency virus, the hepatitis B virus, and the hepatitis C virus;</p> <p>(3) Compliance with the blood-borne pathogens standard has significantly reduced the risk that workers will contract a blood-borne disease in the course of their work;</p> <p>(4) Nevertheless, occupational exposure to blood-borne pathogens from accidental sharps injuries in health care settings continues to be a serious problem;</p> <p>(5) In March 2000, the Centers for Disease Control and Prevention estimated that more than three hundred eighty thousand (380,000) percutaneous injuries from contaminated sharps occur annually among health care workers in United States hospital settings;</p> <p>(6) Estimates for all health care settings are that six hundred thousand (600,000) to eight hundred thousand (800,000) needlestick and other percutaneous injuries occur among health care workers annually involving sharps contaminated with blood-borne pathogens such as the human immunodeficiency virus, hepatitis B, or hepatitis C;</p> <p>(7) Since publication of the blood-borne pathogens standard in 1991, there has been a substantial increase in the number and assortment of effective engineering controls available to employers;</p> <p>(8) There is now a large body of research and data concerning the effectiveness of newer engineering controls, including safer medical devices;</p> <p>(9) Numerous studies have demonstrated that the use of safer medical devices such as needleless systems and sharps with engineered sharps injury protections can be extremely effective in reducing accidental sharps injuries when they are part of an overall blood-borne pathogens risk-reduction program;</p> <p>(10) In March 2000, the centers estimated that sixty-two percent (62%) to eighty-eight percent (88%) of sharps injuries potentially can be prevented by the use of safer medical devices depending on the type of device used and the procedure involved;</p> <p>(11) Training and education in the use of safer medical devices and safer work practices are significant elements in the prevention of percutaneous exposure incidents;</p> <p>(12) Staff involvement in the device selection and evaluation process is also an important element in achieving a reduction in sharps injuries, particularly as newer, safer devices are introduced into work settings;</p>

<b>AR Title 20 Code §</b>	<b>Code Language</b>
	<p>(13) Congress has recognized the seriousness of the dangers of sharps injuries by passing the Needlestick Safety and Prevention Act, Pub. L. 106-430; and</p> <p>(14) Considerable time will lapse before federal regulations are published, hospitals prepare implementation plans, federal agencies review implementation plans, and hospitals begin implementation.</p> <p>(b) As used in this section:</p> <p>(1) "High-risk area" means the emergency department, operating rooms, and intensive care units in acute care hospitals;</p> <p>(2) "Needleless systems" means devices that do not use needles for:</p> <p>(A) The collection of bodily fluids or withdrawal of bodily fluids after initial venous or arterial access is established;</p> <p>(B) The administration of medication or fluids; or</p> <p>(C) Any other procedure involving the potential for occupational exposure to blood-borne pathogens due to percutaneous injuries from contaminated sharps;</p> <p>(3) "Sharps" means a needle used to withdraw bodily fluids, access a vein or artery, or administer medication or other fluids; and</p> <p>(4) "Sharps with engineered sharps injury protections" means a nonneedle sharp or a needle device used for withdrawing bodily fluids, accessing a vein or artery, or administering medications or other fluids with a built-in safety feature or mechanism that effectively reduces the risk of an exposure incident.</p> <p>(c) Immediately after June 1, 2001, hospitals shall begin purchasing needleless systems or sharps with engineered sharps injury protections, or both, for use in high-risk areas, with the goal of ensuring that within eighteen (18) months after June 1, 2001, all high-risk areas shall be supplied exclusively with needleless systems or sharps with engineered sharps injury protections, or both.</p> <p>(d) Any prefilled syringe approved by the Food and Drug Administration shall not be subject to the provisions of this section until July 2005.</p>
§ 20-13-1501	<p><b>Definitions.</b></p> <p>As used in this subchapter:</p> <p>(1) "Airborne or blood-borne disease" means a potentially life-threatening disease, including without limitation:</p> <p>(A) Tuberculosis;</p> <p>(B) Hepatitis C; and</p> <p>(C) Hepatitis B.</p> <p>(2) "Emergency response worker" means:</p> <p>(A) Paramedics;</p> <p>(B) Emergency response employees;</p> <p>(C) Fire fighters;</p> <p>(D) First response workers;</p> <p>(E) Emergency medical technicians;</p> <p>(F) Emergency medical services personnel;</p>

AR Title 20 Code §	Code Language
	<p>(G) Volunteers making an authorized emergency response; and</p> <p>(H) A person rendering services as a "Good Samaritan" under the "Good Samaritan" law, § 17-95-101;</p> <p>(3) "Health care provider" means any physician, nurse, paramedic, or other person providing medical, nursing, or other health care services of any kind; and</p> <p>(4) "Health care facility" means a hospital, nursing home, blood bank, blood center, sperm bank, or other health care institution.</p>
20-13-1502.	<p><b>Possible exposure of emergency response workers to airborne or blood-borne diseases – Testing.</b></p> <p>(a)(1) Consent is not required for a health care provider or health facility to test an individual for an airborne or blood-borne disease when a health care provider or an employee of a health care facility has a type of contact with an individual that may transmit an airborne or blood-borne disease, as determined by a physician in his or her medical judgment.</p> <p>(2) The results of the tests authorized under subdivision (a)(1) of this section shall be provided by the physician ordering the tests to the affected health care provider's physician or the employee's physician and to the physician of the individual who was tested.</p> <p>(b)(1) Notwithstanding any other law to the contrary, a person who performs a test under subsection (a) of this section shall not be subject to civil or criminal liability for doing so.</p> <p>(2) Notwithstanding any other law to the contrary, a person who discloses a test result in accordance with the provisions of subsection (a) of this section shall not be subject to civil or criminal liability.</p>
§ 20-15-901	<p><b>Free testing program -- Confidentiality</b></p> <p>(a) The Department of Health shall institute an acquired immune deficiency syndrome (AIDS) testing program whereby any citizen may be tested for the virus without charge.</p> <p>(b) The program shall be so devised as to maintain secrecy as to the identification of persons voluntarily participating in the program.</p>
§ 20-15-902	<p><b>Counseling -- Seminars</b></p> <p>The Department of Education, the University of Arkansas for Medical Sciences, and the Department of Health shall jointly provide counseling and shall also conduct public seminars designed to educate the public regarding acquired immune deficiency syndrome (AIDS).</p>
§ 20-15-903	<p><b>Advising physician or dentist required -- Penalty</b></p> <p>(a) Any person who is found to have human immunodeficiency virus (HIV) infection shall, prior to receiving any health care services of a physician or dentist, advise such physician or dentist that the person has HIV infection.</p>

<b>AR Title 20 Code §</b>	<b>Code Language</b>
	(b) Any person failing or refusing to comply with the provisions of subsection (a) of this section shall be guilty of a Class A misdemeanor and punished accordingly.
§ 20-15-904	<p><b>Reporting -- Confidentiality -- Subpoenas</b></p> <p>(a) A person with acquired immunodeficiency syndrome (AIDS) or who tests positive for the presence of human immunodeficiency virus (HIV) antigen or antibodies is infectious to others through the exchange of body fluids during sexual intercourse and through the parenteral transfer of blood or blood products and under these circumstances is a danger to the public.</p> <p>(b) A physician whose patient is determined to have acquired immunodeficiency syndrome (AIDS) or who tests positive for the presence of human immunodeficiency virus (HIV) antigen or antibodies shall immediately make a report to the Department of Health in the manner and form as the department shall direct.</p> <p>(c) (1) All information and reports in connection with persons suffering from or suspected to be suffering from the diseases specified in this section shall be regarded as confidential by any and every person, body, or committee whose duty it is or may be to obtain, make, transmit, and receive information and reports.</p> <p>(2) However, any prosecuting attorney of this state may subpoena information as may be necessary to enforce the provisions of this section and §§ 5-14-123 and 16-82-101, provided that any information acquired pursuant to the subpoena shall not be disclosed except to the courts to enforce the provisions of this section.</p>
§ 20-15-905	<p><b>HIV Shield Law</b></p> <p>(a) As used in this section:</p> <p>(1) "Health care provider" means any physician, nurse, paramedic, or other person providing medical, nursing, or other health care services of any kind;</p> <p>(2) "Health facility" means a hospital, nursing home, blood bank, blood center, sperm bank, or other health care institution;</p> <p>(3) "HIV" means the human immunodeficiency virus or any other identified causative agent of acquired immunodeficiency syndrome;</p> <p>(4) "Person" includes any natural person, partnership, association, joint venture, trust, governmental entity, public or private corporation, health facility, or other legal entity; and</p> <p>(5) "Test" or "HIV test" means a test to determine the presence of the antibody or antigen to HIV or of HIV infection.</p> <p>(b) (1) Consent is not required for a health care provider or health facility to perform a test when a health care provider or employee of a health facility is involved in a direct skin or mucous membrane contact with the blood or bodily fluids of an individual which is of a nature that may transmit HIV, as determined by a physician in his medical judgment.</p>

AR Title 20 Code §	Code Language
	<p>(2) (A) The results of the test shall be provided by the person ordering the test to the affected health care provider or employee of a health facility, to the health care provider's or employee's physician, to the individual tested, and to the individual's physician.</p> <p>(B) Appropriate counseling shall be provided along with the test results.</p> <p>(c) (1) Informed consent, information, and counseling are not required for the performance of an HIV test when, in the judgment of the physician, such testing is medically indicated to provide an appropriate diagnosis and treatment to the subject of the test provided that the subject of the test has otherwise provided his or her consent to such physician for medical treatment.</p> <p>(2) If confirmatory testing is positive for evidence of HIV infection, the patient shall be informed.</p> <p>(d) Health care providers or facilities may not deny appropriate care based upon the results of an HIV test.</p> <p>(e) (1) Notwithstanding any other law to the contrary, no person who performs a test pursuant to subsections (b) or (c) of this section shall be subject to civil or criminal liability for doing so.</p> <p>(2) Notwithstanding any other law to the contrary, no person who discloses a test result in accordance with the provisions of subsection (b) of this section shall be subject to civil or criminal liability; provided, however, nothing in this section shall be construed to limit the confidentiality for AIDS testing provided by § 20-15-901 or other provision of law unless testing is conducted pursuant to this section.</p>
§ 20-15-906	<p><b>Report to Department of Health required -- Privileged communications</b></p> <p>(a) Reports shall be made to the Department of Health in the form and manner as may be required by the department for all persons who have been determined to have acquired immunodeficiency syndrome or who have tested positive for the presence of human immunodeficiency virus antigen or antibodies.</p> <p>(b) Reporting is required by the following persons:</p> <ol style="list-style-type: none"> <li>(1) Physicians;</li> <li>(2) Hospital infection control practitioners and the chairpersons of hospital infection control committees;</li> <li>(3) Directors of laboratories doing business in the State of Arkansas;</li> <li>(4) Medical directors of in-home health agencies;</li> <li>(5) Program directors of state agencies to whom a human immunodeficiency virus or acquired immunodeficiency syndrome diagnosis has been disclosed;</li> <li>(6) Nursing home medical directors; and</li> <li>(7) Those other persons as are required by the rules and regulations of the department.</li> </ol>

<b>AR Title 20 Code §</b>	<b>Code Language</b>
	(c) Notwithstanding the provisions of this section or of any other law, the privileged communications provisions codified at § 17-103-107 et seq. are not repealed.
§ 20-15-908	<p><b>Findings and purpose</b></p> <p>It is found and determined by the General Assembly that:</p> <p>(1) The citizens of Arkansas suffering from human immunodeficiency virus (HIV) or acquired immunodeficiency syndrome (AIDS) should have access to the latest drug therapies;</p> <p>(2) The continued spread of human immunodeficiency virus (HIV) is a danger to the public health of Arkansas;</p> <p>(3) Proper treatment of individuals living with human immunodeficiency virus (HIV) or acquired immunodeficiency syndrome (AIDS) who are pregnant can significantly decrease the possibility of infecting their unborn children;</p> <p>(4) Infection rates among Arkansas citizens can be curtailed by the proper administration of drug therapies to those infected with human immunodeficiency virus (HIV) or acquired immunodeficiency syndrome (AIDS);</p> <p>(5) The continued medical costs associated with illnesses related to human immunodeficiency virus are a threat to the medical infrastructure of Arkansas;</p> <p>(6) The quality of life of those individuals affected by human immunodeficiency virus (HIV) or acquired immunodeficiency syndrome (AIDS), along with the quality of life of their family members, can be enhanced through continuing drug therapies;</p> <p>(7) There is a pressing and immediate need for the distribution of medications for human immunodeficiency virus (HIV) or acquired immunodeficiency (AIDS); and</p> <p>(8) This section and §§ 20-15-907 and 20-15-909 can help meet these needs by furnishing financial assistance, subject to the availability of funds, to citizens of Arkansas suffering from human immunodeficiency virus (HIV) or acquired immunodeficiency syndrome (AIDS).</p>
§ 20-16-507	<p><b>Testing of pregnant women required.</b></p> <p>(a)(1)(A)Every physician and health care provider attending pregnant women in this state for conditions relating to their pregnancy shall, in the case of every woman so attended, take or cause to be taken a sample of venous blood or other approved specimen of the woman as early as reasonably possible in the pregnancy or, if not attended prenatally, at the time of delivery, and shall submit the sample to an approved laboratory for:</p> <p>(i)A standard serological test for syphilis;</p> <p>(ii)A standard test for human immunodeficiency virus; and</p> <p>(iii)A standard test for hepatitis B.</p>



AR Title 20 Code §	Code Language
	<p>(B)If for any reason the pregnant woman is not tested for syphilis, human immunodeficiency virus, or hepatitis B, that fact shall be recorded in the patient's records, which, if based upon the refusal of the patient, shall relieve the physician of any responsibility under this subsection.</p> <p>(2)Every other person authorized by law to attend or to provide medical treatment to pregnant women in this state but not permitted by law to take blood samples shall cause a sample of blood or other approved specimen of the pregnant woman to be taken as early as reasonably possible in the pregnancy or, if not attended prenatally, at the time of delivery, by or under the direction of a physician licensed to practice medicine and surgery and have the sample submitted to an approved laboratory for:</p> <p>(A)A standard serological test for syphilis;</p> <p>(B)A standard test for human immunodeficiency virus; and</p> <p>(C)A standard test for hepatitis B.</p> <p>(3)Every physician described in subdivision (a)(1) of this section and every person described in subdivision (a)(2) of this section shall:</p> <p>(A)Inform each pregnant woman whom he or she is attending of the fact that syphilis, human immunodeficiency virus, and hepatitis B may be transmitted from an infected mother to the fetus or unborn child and that these infections may be prevented if the maternal infection is recognized and treated; and</p> <p>(B)Provide counseling and instruction for human immunodeficiency virus in a manner prescribed by the Division of Health of the Department of Health and Human Services based upon contemporary state and federal standards.</p> <p>(b)For the purpose of this section, a standard serological test shall be a test for syphilis, human immunodeficiency virus, and hepatitis B, approved or authorized by the Centers for Disease Control and Prevention, and approved by the Director of the Division of Health of the Department of Health and Human Services and shall be made at the division's laboratory or at another laboratory approved to make such tests.</p> <p>(c)All records, reports, data, or other information collected or maintained under this section that identifies or could be used to identify any individual patient, provider, or institution shall be confidential, shall not be subject to discovery pursuant to the Arkansas Rules of Civil Procedure or the Freedom of Information Act of 1967,</p>
§ 20-16-508	<p><b>Treatment of minors.</b></p> <p>(a) (1) Consent to the provision of medical or surgical care or services by a hospital or public clinic or consent to the performance of medical or surgical care or services by a physician who is licensed to practice medicine in this state when the consent is executed by a minor who has or believes</p>



<b>AR Title 20 Code §</b>	<b>Code Language</b>
	<p>himself or herself to have a venereal disease shall be valid and binding as if the minor had achieved his or her majority. Any consent shall not be subject to a later disaffirmance by reason of his or her minority.</p> <p>(2) The consent of a spouse, parent, guardian, or any other person standing in a fiduciary capacity to the minor shall not be necessary in order to authorize hospital care or services or medical or surgical care or services to be provided to the minor by a physician licensed to practice medicine.</p> <p>(b) Upon the advice and direction of a treating physician or in the case of a medical staff any one (1) of them, a physician or member of a medical staff may inform the spouse, parent, or guardian of any minor as to the treatment given or needed but shall not be obligated to do so. The information may be given to or withheld from the spouse, parent, or guardian without the consent and over the express objection of the minor.</p>
§ 20-27-302	<p><b>Testing for blood-borne diseases</b></p> <p>(a) Any individual or company that collects blood products, including, but not limited to, red cells, white cells, platelets, clotting factors, immunoglobulins, or plasma for the purpose of resale or distribution used in the treatment of human disease, shall:</p> <p>(1) Inform the donor that his blood will be tested for the presence of human immunodeficiency virus antigens or antibodies (HIV-1), causative agents of acquired immunodeficiency syndrome (AIDS) and other blood-borne diseases and shall inform the donor of the test results. In addition, if the donor's blood tests are found to be reactive, the donor's name shall be made available to the Department of Health for the purpose of contact tracing and partner notification and to donor referral registries;</p> <p>(2) Use no donations of blood products or plasma until the donor has been found to be free of evidence of the HIV infection by a United States Food and Drug Administration-approved screening test such as the Enzyme-Linked Immunosorbent Assay (ELISA) test; and</p> <p>(3) Repeat any screening test that is found to be positive. If the screening test is repeatedly positive, a confirmatory test such as the Western Blot, Immunofluorescence Assay (IFA) or any other confirmatory test subsequently approved by the United States Food and Drug Administration shall be performed. If confirmatory testing is positive for evidence of HIV infection, the donor shall be informed and his blood shall not be accepted.</p> <p>(b) Donors who test positive shall be encouraged to seek medical consultation from their physician or local public health facility.</p>

## Arkansas Administrative Rules - Rules and Regulations Pertaining to Communicable Disease

007.15.04-001 Section	Code Language
Section III	<p><b>RESPONSIBILITY FOR REPORTING.</b></p> <p>A. It shall be the duty of every physician, practitioner, nurse; every superintendent or manager of a dispensary, hospital, clinic, nursing or extended care home; any person in attendance on a case of any of the diseases or conditions declared notifiable; or the local health department to report the disease or condition to the Department utilizing the Toll Free Communicable Disease Reporting System (1-800-482-8888) within twenty-four (24) hours.</p> <p>B. Any person who determines by laboratory examination that a specimen derived from the human body yields evidence suggestive of a communicable disease shall report, within twenty-four (24) hours, to the Department on the Toll Free Communicable Disease Reporting System microscopical, cultural or other evidence of the presence of any of the diseases declared notifiable.</p> <p>C. It shall be the duty of every superintendent of a public school district or such person(s) he designates, to report immediately to the Department on the Toll Free Communicable Disease Reporting System any outbreak of three (3) or more cases of any of the conditions declared notifiable.</p>
Section IV	<p><b>NOTIFIABLE DISEASES AND CONDITIONS</b></p> <p>A. Notifiable diseases and conditions are to be reported to the Department utilizing the Toll Free Communicable Disease Reporting System (1-800-482-8888) within 24 hours of diagnosis. Reports should include:</p> <ol style="list-style-type: none"> <li>1. The reporter's name, location and phone number.</li> <li>2. The name of the disease reported and the onset date.</li> <li>3. The patient's name, address, phone number, age, sex and race. (PLEASE spell the patient's name.)</li> <li>4. The attending physician's name, location and phone number.</li> <li>5. Any treatment information, if known.</li> <li>6. Any pertinent laboratory or other information used in the diagnosis.</li> </ol> <p>B. Additional disease-specific information may be requested. Any person desiring to further discuss reportable diseases may phone the Division of Epidemiology at (501) 661-2893 during normal business hours or 1-800-554-5738 after hours, holidays and weekends.</p>
Section V	<p><b>DISEASES AND CONDITIONS</b></p> <p>A. NOTIFIABLE DISEASES AND CONDITIONS</p> <p style="padding-left: 20px;">AIDS*</p> <p style="padding-left: 20px;">CD4+ T-Lymphocyte Count</p> <p style="padding-left: 20px;">H.I.V. (Human Immunodeficiency Virus)*</p>

007.15.04-001 Section	Code Language
	* Any woman infected with AIDS, HIV or Syphilis, who is pregnant, must be so reported indicating the trimester of pregnancy. This applies each time the woman becomes pregnant.
Section VIII	<p><b>CEASE AND DESIST ORDERS.</b></p> <p>If the Director has reasonable cause to suspect that any person who is HIV positive is intentionally engaging in conduct that is likely to cause the transmission of the virus, the Director may issue an order to said person to cease and desist such conduct. Failure to comply immediately shall constitute a violation of these rules and regulations. Such violation shall be promptly reported to the prosecuting attorney in the county where the person resides for appropriate action.</p>
Section XIII	<p><b>PROTECTION OF EMERGENCY RESPONSE EMPLOYEES</b></p> <p>A. Any emergency response employee who fears that he or she has been exposed to a communicable disease may notify the Department. Upon notification, the Department shall determine if the exposure requires additional investigation. In the event that it is determined that the exposure is one which should not create the risk of transmission of a communicable disease, the emergency response employee shall be so notified. If requested, he or she will be instructed as to additional steps that may be taken to confirm that no exposure to actual disease has occurred. If the Department determines that the exposure was one that could have caused the transmission of a communicable disease, the Department shall immediately contact the treating physician to determine if the patient was infected with a communicable disease. If it is determined that the individual was infected with a communicable disease, the emergency response employee shall be contacted immediately by the Department and counseled concerning the recommended course of action.</p> <p>B. Any medical provider who has knowledge that an emergency response employee has been exposed to a communicable disease shall notify the Department immediately. The Department shall contact the emergency response employee immediately and provide appropriate counseling concerning the appropriate course of action.</p> <p>C. Any medical provider who has knowledge that a patient with a communicable disease is being transferred, transported or treated by an emergency response employee shall, prior to said transfer, transportation or treatment notify the emergency response employee of the patient's communicable condition.</p>
Section XIV	<p><b>EXCLUSION AND READMISSION TO SCHOOL OR CHILD CARE FACILITIES.</b></p> <p>It shall be the duty of the principal or other person in charge of any public or private schools, or child care facilities, at the direction of the Department, to exclude therefrom any child, teacher or employee affected</p>

<b>007.15.04-001 Section</b>	<b>Code Language</b>
	with a communicable disease until the individual is certified free of disease, by written notice from a physician, school nurse, public health nurse or the Department.
Section XXI	<p><b>VENEREAL DISEASE (SYPHILIS, GONORRHEA, CHANCROID, LYMPHOGRANULOMA VENEREUM, GRANULOMA INGUINALE) AND OPHTHALMIA NEONATURUM (GONORRHEAL OPHTHALMIA)</b></p> <p>A. Testing of pregnant women</p> <ol style="list-style-type: none"> <li>1. Every physician attending a pregnant woman shall take, or cause to be taken, a sample of venous blood at the time of first examination and submit such sample to an approved laboratory for a standard serologic test for Syphilis; a standard test for Human Immunodeficiency virus; and a standard test for Hepatitis B. Any person other than a physician permitted by law to attend pregnant women but not permitted by law to take blood samples, shall cause a specimen of blood to be taken by, or under the direction of a physician duly licensed to practice medicine and surgery, and have such specimen submitted to an approved laboratory for testing.</li> <li>2. Any person reporting a birth or stillbirth shall state on the certificate whether a blood test for Syphilis had been made upon a specimen of blood taken from the woman who bore the child for which a birth or stillbirth certificate is filed and the approximate date when the specimen was taken.</li> </ol>