

Maine

Introduction and Table of Contents

April 8, 2011

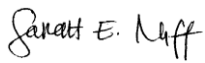
To the Reader:

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.

Thank you,



Sarah E. Neff, MPH
Director of Research and Evaluation

&



Ronald H. Goldschmidt, MD
Director

National HIV/AIDS Clinicians' Consultation Center (NCCC)
San Francisco General Hospital
University of California, San Francisco

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)**.

Table of Contents	i
Definitions and Helpful Resources	ii
Quick Reference Guide for Clinicians to Maine HIV Testing Laws	iii
Perinatal Quick Reference Guide for Clinicians	iv
State Policies Relating to HIV testing, 2011	ME-1 – ME-40

Definitions and Helpful Resources

April 8, 2011

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.¹
 - **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.¹
- **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.²
- **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.¹
- **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.³
- **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

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

¹ 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>

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

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

Maine

A Quick Reference Guide for Clinicians to Maine HIV Testing Laws

April 8, 2011

This Quick Reference Guide for clinicians is a summary of relevant Maine 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 Maine HIV testing laws, please refer to the section of the Compendium that follows this Quick Reference Guide.

Informed Consent

- Informed consent is required and through the opt-out process; may be oral or in writing.

Counseling

- Post-test counseling is required with HIV positive test results.
- Post-test counseling is required in cases of health care worker exposure.

Provisos of Testing

- **Anonymous**
 - Anonymous testing is available at designated anonymous testing sites.
- **Rapid**
 - No specific provisions regarding rapid testing were found.
- **Routine**
 - No specific provisions regarding routine testing were found.

Disclosure

- No specific provisions regarding the notification of partners or contacts were found.

Minor/Adolescent Testing

- Minors may consent to venereal disease testing and treatment, HIV not explicitly included.
- Physicians may, but are not required to, inform the parents of the HIV test result.

Maine

Perinatal Quick Reference Guide:

A Guide to Maine Perinatal HIV Testing Laws for Clinicians

April 8, 2011

This Perinatal Quick Reference Guide for clinicians is a summary of relevant Maine 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 Maine HIV testing laws, please refer to the corresponding section of the *State HIV Testing Laws Compendium* (www.nccc.ucsf.edu), “Testing of pregnant women and/or newborns.”

Prenatal

- **Initial visit**
 - No specific provisions regarding initial visit prenatal testing were found.
- **Third trimester**
 - No specific provisions regarding third trimester prenatal testing were found.

Labor & Delivery

- No specific provisions regarding labor & delivery testing were found.

Neonatal

- No specific provisions regarding neonatal testing were found.

Other

- N/A

Maine State Policies Relating to HIV Testing, 2011

Table of Contents

Maine Revised Statutes [MRS]

Title 5: Administrative Procedures and Services..... Pages 3-13
Title 22: Health and Welfare..... Pages 14-16
Title 24-A: Maine Insurance Code..... Page 17
Title 24: Insurance..... Page 18

Code of Maine Rules [CMR]

Title 02: Department of Professional and Financial Regulation..... Pages 19-25
Title 03: Department of Corrections..... Pages 26-29
Title 10: Department of Health and Human Services..... Pages 30-38
Title 14: Department of Health and Human Services..... Pages 39-40
(Rules formerly under Department of Behavioral and Developmental Services)

	Policy Category	Type	Section Code(s)
RESTRICTIONS/MANDATES	Restrictions on use of HIV test	Testing prohibited for employment/hiring purposes	5 MRS §19204-B
		Testing prohibited for determining health insurance eligibility	5 MRS §19204-C
		Testing prohibited for determining insurance eligibility	24-A MRS §2159
	Mandatory testing within the criminal justice system	Convicted sexual assault offender upon request of victim	5 MRS §19203-F
	Mandatory testing outside of the criminal justice system	Occupational exposure with court order– outside of health care settings	22 MRS §832 5 MRS §19203-C
PRE-TESTING	Mandatory offering of HIV/AIDS information and/or testing	HIV risk education given on initial prenatal visit of family planning agency services	CMR 10.144.101 Sec 30.04-4
		Education shall be provided for all clients of opioid treatment programs	CMR 14.118.5 Sec 19.8.3.5
	Informed consent	Voluntary informed consent is required - patient informed orally or in writing that test will be performed unless the patient declines (opt-out).	5 MRS §19203-A
		Written informed consent required for insurance testing	5 MRS §19203-A CMR 02.031.490

		Consent required for testing of patient in cases of occupational exposure within health care setting	5 MRS §19203-A
	Counseling requirements	Mandatory offering of post-test counseling to patients with positive results	5 MRS §19204-A
		Counseling must be offered in cases of occupational exposure if results are positive	5 MRS §19203-A
		Waiver must be signed to forgo post- test counseling	5 MRS §19204-A CMR 02.031.490
	Anonymous testing	State department of health may sponsor anonymous testing sites	5 MRS §19203-B
POST-TEST	Disclosure/confidentiality	HIV test results confidential	CMR 10-144-258.2G
		Separate written consent required to release HIV test results.	CMR 10-144-258.2G
		Exceptions to confidentiality	5 MRS §19203 5 MRS §19203-D
		Disclosure in health worker exposure cases	22 MRS §833
	Reporting	Name-based reporting	CMR 10-144-258.2B
OTHER	Testing of pregnant women and/or newborns	No related laws found	
	Testing of minors/adolescents	Minors may consent to treatment for venereal disease	22 MRS §1823
		Physician may, but is not required to, notify parents or guardians	22 MRS §1823
	Rapid HIV testing	No related laws found	
Training and education of health care providers	Training of opioid treatment programs' staff	CMR 14.118.5 Sec 19.8.6.7.2	

Recommended Resources

List of Titles, Maine Revised Statutes

<http://janus.state.me.us/legis/statutes/>

Code of Maine Rules

<http://www.maine.gov/sos/cec/rules/rules.html>

Maine Center for Disease Control and Prevention

<http://www.maine.gov/dhhs/boh/>

Title 5: Administrative Procedures and Services
--

ME Title 5 Code §	Code Language
§ 19201	<p>Definitions</p> <p>As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings.</p> <p>1. ANTIBODY TO HIV. "Antibody to HIV" means the specific immunoglobulin produced by the body's immune system in response to HIV.</p> <p>1-A. BONA FIDE OCCUPATIONAL EXPOSURE. "Bona fide occupational exposure" means skin, eye, mucous membrane or parenteral contact of a person with the potentially infectious blood or other body fluids of another person that results from the performance of duties by the exposed person in the course of employment. It also includes such contact resulting from performance of emergency services by a volunteer firefighter as defined by Title 30-A, section 3151 or by an emergency medical services person licensed under Title 32, chapter 2-B when responding to an emergency as part of a governmental, nonprofit or other organized entity, whether the firefighter or emergency medical services person is compensated for such services or not.</p> <p>1-B. EMPLOYER; EMPLOYER OF THE PERSON EXPOSED. "Employer" and "employer of the person exposed" include a self-employed person who is exposed to the potentially infectious blood or other body fluids of another person. It also includes, in the case of a volunteer firefighter or emergency medical services person, the organization for which the services are performed.</p> <p>2. HEALTH CARE PROVIDER. "Health care provider" means any appropriately licensed, certified or registered provider of mental or physical health care, either in the public or private sector or any business establishment providing health care services.</p> <p>2-A. HEALTH CARE SETTING. "Health care setting" means any location where there is provision of preventive, diagnostic, therapeutic, rehabilitative, maintenance or palliative care, services, procedures or counseling, including emergency services performed in the field, and appropriate assistance with disease or symptom management and maintenance that affects an individual's physical, mental or behavioral condition, including the process of banking blood, sperm, organs or any other tissue.</p> <p>3. HIV. "HIV" means the human immunodeficiency virus, identified as the causative agent of Acquired Immune Deficiency Syndrome or AIDS.</p> <p>4. HIV ANTIGEN. "HIV antigen" means the specific immune-recognizable marker proteins of HIV.</p>

ME Title 5 Code §	Code Language
	<p>4-A. HIV TEST. "HIV test" means a test for the presence of an antibody to HIV or a test for an HIV antigen or other diagnostic determinants specific for HIV infection.</p> <p>5. HIV INFECTION; HIV INFECTION STATUS. "HIV infection" means the state wherein HIV has invaded the body and is being actively harbored by the body. "HIV infection status" means the results of an HIV test.</p> <p>5-A. INFORMED CONSENT. "Informed consent" means consent that is:</p> <p>A. Based on an actual understanding by the person to be tested:</p> <ol style="list-style-type: none"> 1) That the test is being performed; 2) Of the nature of the test; 3) Of the persons to whom the results of that test may be disclosed; 4) Of the purpose for which the test results may be used; and 5) Of any reasonably foreseeable risks and benefits resulting from the test; and <p>B. Wholly voluntary and free from express or implied coercion.</p> <p>6. PERSON. "Person" means any natural person, firm, corporation, partnership or other organization, association or group, however organized.</p> <p>7. SEROPOSITIVITY. "Seropositivity" means the presence of antibody to HIV as detected by appropriate laboratory tests.</p> <p>8. VIRAL POSITIVITY. "Viral positivity" means demonstrated presence of HIV.</p>
§ 19203	<p>Confidentiality of test</p> <p>No person may disclose the results of an HIV test, except as follows:</p> <ol style="list-style-type: none"> 1. SUBJECT OF TEST. To the subject of the test; 2. DESIGNATED HEALTH CARE PROVIDER. To a health care provider designated by the subject of the test in writing. When a patient has authorized disclosure of HIV test results to a person or organization providing health care, the patient's health care provider may make these results available only to other health care providers working directly with the patient and only for the purpose of providing direct medical or dental patient care. Any health care provider who discloses HIV test results in good faith pursuant to this subsection is immune from any criminal or civil liability for the act of disclosing HIV test results to other health care providers; 3. AUTHORIZED PERSON. To a person or persons to whom the test subject has authorized disclosure in writing, except that the disclosure may not be used to violate any other provisions of this chapter; 4. CERTAIN HEALTH CARE PROVIDERS. A health care provider who

ME Title 5 Code §	Code Language
	<p>procures, processes, distributes or uses a human body part donated for a purpose may, without obtaining informed consent to the testing, perform an HIV test in order to assure medical acceptability of the gift for the purpose intended. Testing pursuant to this subsection does not require pretest and post-test counseling;</p> <p>5. RESEARCH FACILITY. The Department of Health and Human Services, a laboratory certified and approved by the Department of Health and Human Services pursuant to Title 22, chapter 411, or a health care provider, blood bank, blood center or plasma center may, for the purpose of research and without first obtaining informed consent to the testing, subject any body fluids or tissues to an HIV test if the testing is performed in a manner by which the identity of the test subject is not known and may not be retrieved by the researcher;</p> <p>6. ANONYMOUS TESTING SITES. To an anonymous testing site established pursuant to section 19203-B;</p> <p>7. OTHER AGENCIES. To employees of, or other persons designated by, the Department of Corrections and the Department of Health and Human Services, to the extent that those employees or other persons are responsible for the treatment or care of subjects of the test. Those agencies shall adopt rules, within 90 days of August 4, 1988, pursuant to chapter 375, subchapter 2, designating the persons or classes of persons to whom the test results may be disclosed. The rules of the Department of Corrections must designate those persons who may receive the results of an HIV test of a county jail inmate;</p> <p>8. BUREAU OF HEALTH. To the Bureau of Health, which may disclose results to other persons only if that disclosure is necessary to carry out its duties as provided in Title 22, sections 3, 7 and 42 and chapters 250 and 251;</p> <p>9. MEDICAL RECORDS. As part of a medical record when release or disclosure of that record is authorized pursuant to section 19203-D; or</p> <p>10. COURT ORDERED DISCLOSURE. To:</p> <p>A. A person authorized by section 19203-C to receive test results following an accidental exposure; or</p> <p>B. A victim-witness advocate authorized by section 19203-F to receive the test results of a person convicted of a sexual crime as defined in section 19203-F, subsection 1, paragraph C, who shall disclose to a victim under section 19203-F, subsection 4.</p> <p>This section does not prohibit limited administrative disclosure in conjunction with a mandatory testing program of a military organization subject to Title 37-B.</p>

ME Title 5 Code §	Code Language
	Nothing in this section may be construed as prohibiting the entry of an HIV test result on the patient's medical record in accordance with this chapter.
§ 19203-A	<p>Voluntary informed consent required</p> <p>1. INDIVIDUAL TESTED. Except as provided in this section and section 19203, subsections 4 and 5, an HIV test must be voluntary and undertaken only with a patient's knowledge and understanding that an HIV test is planned. A patient must be informed orally or in writing that an HIV test will be performed unless the patient declines. Oral or written information required to be given to a patient under this subsection must include an explanation of what an HIV infection involves and the meaning of positive and negative test results. A patient must be provided the opportunity to ask questions, either orally or in writing. Informed consent is not required for repeated HIV testing by health care providers to monitor the course of established infection.</p> <p>2. INSURERS. Persons required to take an HIV test by an insurer, nonprofit hospital or medical service organization or nonprofit health care plan must provide their written informed consent on forms approved by the Superintendent of Insurance. If the test is positive, post-test counseling must be provided by the person or organization requesting the test. The Superintendent of Insurance may adopt rules to define language requirements of the form.</p> <p>3. ACCESS TO MEDICAL CARE. A health care provider may not deny any person medical treatment or care solely for refusal to give consent for an HIV test. A health care provider may not request a person's written consent to an HIV test as a precondition to the provision of health care. All written consent to testing must be in accordance with section 19201, subsection 5-A. This section does not prohibit a health care provider from recommending an HIV test for diagnostic or treatment purposes. A physician or other health care provider is not civilly liable for failing to have an HIV test performed for diagnostic or treatment purposes if the test was recommended and refused in writing by the patient.</p> <p>4. OCCUPATIONAL EXPOSURE. Consent need not be obtained when a bona fide occupational exposure creates a significant risk of infection if a court order has been obtained under section 19203-C. The fact that an HIV test was given as a result of an occupational exposure and the results of that test may not appear in any records of the person whose blood or body fluid is the source of the exposure. If the test is positive, post-test counseling must be offered. The subject of the test may choose not to be informed about the result of the test.</p> <p>4-A. OCCUPATIONAL EXPOSURE IN HEALTH CARE SETTING. When a bona fide occupational exposure occurs in a health care setting, authorization to test the source patient for HIV must be obtained from that patient if the patient is present or can be contacted at the time of exposure and is</p>

ME Title 5 Code §	Code Language
	<p>capable of providing consent. At the time of exposure, if the source patient is not present and can not be contacted or is incapacitated, then any reasonably available member of the following classes of individuals, in descending order of priority, may authorize an HIV test on a blood or tissue sample from the source patient:</p> <p>A. The patient's legal guardian;</p> <p>B. An individual known to have power of attorney for health care for the patient;</p> <p>C. An adult relative, by blood, marriage or adoption;</p> <p>D. An adult with whom the patient has a meaningful social and emotional relationship; and</p> <p>E. A physician who is familiar with occupational exposures to HIV.</p> <p>The individual authorizing the HIV test must be informed of the nature, reliability and significance of the HIV test and the confidential nature of the test.</p> <p>If the person contacted for authorization refuses to authorize the test, the test may not be conducted unless consent is obtained from the source patient or from the court pursuant to section 19203-C.</p> <p>This subsection does not authorize a person described in paragraphs A to D to receive the test result. Test results must be given to the exposed person, to a personal physician if designated by the exposed person and to either the physician who authorizes the test or the health care provider who manages the occupational exposure.</p> <p>The patient may choose not to be informed about the result of the HIV test. Without express patient authorization, the results of the HIV test and the fact that an HIV test was done as a result of an occupational exposure in a health care setting may not appear in the patient's health care records. The exposed individual's occupational health care record may include documentation of the occupational exposure and, if the record does not reveal the source patient's identity, the results of the source patient's HIV test.</p> <p>5. EXPOSURE FROM SEXUAL CRIME. Consent need not be obtained when a court order has been issued under section 19203-F. The fact that an HIV test was given as a result of the exposure and the results of that test may not appear in a convicted offender's medical record. Counseling on risk reduction must be offered, but the convicted offender may choose not to be informed about the result of the test unless the court has ordered that the convicted offender be informed of the result.</p>
§ 19203-B	Anonymous testing sites

ME Title 5 Code §	Code Language
	The Department of Health and Human Services may designate or establish certification and approval standards for and support anonymous testing sites where an individual may request an HIV test under conditions which ensure anonymity.
§ 19203-C	<p>Judicial consent to HIV test</p> <p>1. PETITION. Any person who experiences a bona fide occupational exposure may petition the District Court with jurisdiction over the facility or other place where the exposure occurred to require the person whose blood or body fluid is the source of the exposure to submit to an HIV test and to require that the results of the test be provided to the petitioner provided that the following conditions have been met:</p> <p>A. The exposure to blood or body fluids creates a significant risk of HIV infection, as defined by the Bureau of Health through the adoption of rules in accordance with the Maine Administrative Procedure Act, chapter 375;</p> <p>B. The authorized representative of the employer of the person exposed has informed the person whose blood or body fluid is the source of the occupational exposure and has sought to obtain written informed consent from the person whose blood or body fluid is the source of the exposure; and</p> <p>C. Written informed consent was not given by the person whose blood or body fluid is the source of the exposure and that person has refused to be tested, or, in the event of an occupational exposure in a health care setting when the source patient was not present and could not be contacted or was incapacitated, the individual contacted for authorization to test the source patient's blood or tissue sample denied the authorization.</p> <p>1-A. REPEALED. Laws 1995, c. 404, § 8.</p> <p>2. PREHEARING DUTIES OF THE COURT. Upon receipt by the District Court of the petition, the court shall:</p> <p>A. Schedule a hearing to be held as soon as practicable;</p> <p>B. Cause a written notice of the petition and hearing to be given, in accordance with the Maine Rules of Civil Procedure, to the patient who is the subject of the proceeding;</p> <p>C. Appoint counsel, if requested, for any indigent client not already represented; and</p> <p>D. Furnish counsel with copies of the petition.</p> <p>3. HEARING. The hearing shall be governed as follows.</p> <p>A. The hearing shall be conducted in accordance with the Maine Rules of Evidence and in an informal manner consistent with orderly procedure.</p> <p>B. The hearing shall be confidential and be electronically or stenographically recorded.</p> <p>C. The report of the hearing proceedings must be sealed. No report of the hearing proceedings may be released to the public, except by permission of the person whose blood or body fluid is the source of the exposure or that person's counsel and with the approval of the court.</p>

ME Title 5 Code §	Code Language
	<p>D. The court may order a public hearing at the request of the person whose blood or body fluid is the source of the exposure or that person's counsel.</p> <p>4. DETERMINATION. The court shall require the person whose blood or body fluid is the source of the exposure to obtain an HIV test if the petitioner proves, by a preponderance of the evidence, that:</p> <p>A. The exposure to blood or body fluids of the person created a significant risk of HIV infection as defined by the Bureau of Health through the adoption of rules in accordance with the Maine Administrative Procedure Act, chapter 375;</p> <p>B. An authorized representative of the employer of the person exposed has informed the patient of the occupational exposure and has sought to obtain written informed consent from the person whose blood or body fluid is the source of the exposure; and</p> <p>C. Written informed consent was not given by the person whose blood or body fluid is the source of the exposure and that person has refused to be tested.</p> <p>5. CONSENT. The court may not order a person whose blood or body fluid is the source of the exposure to obtain an HIV test unless the employee exposed to the blood or body fluids of that person has consented to and obtained an HIV test immediately following that documented exposure.</p> <p>6. COSTS. The employer of the person exposed is responsible for the petitioner's reasonable costs related to obtaining the results of an HIV test pursuant to this section, including the payment of the petitioner's attorneys' fees.</p> <p>7. APPEALS. A person required to undergo an HIV test may appeal the order to Superior Court. The appeal is limited to questions of law. Any findings of fact of the District Court may not be set aside unless clearly erroneous.</p> <p>8. REPEALED. Laws 1995, c. 404, § 11.</p> <p>9. SUBSEQUENT TESTING. Subsequent testing arising out of the same incident of occupational exposure must be conducted in accordance with this section.</p> <p>10. BUREAU OF HEALTH REPORT. The Bureau of Health shall report on an annual basis to the Maine HIV Advisory Committee the following information:</p> <p>A. The number of incidents in which the Bureau of Health is requested to determine under subsection 1, paragraph A whether a bona fide occupational exposure has occurred; and</p> <p>B. With regard to the incidents reported in paragraph A, the occupations represented, the nature or a description of the incidents and the number of</p>

ME Title 5 Code §	Code Language
	incidents determined to be and not to be bona fide occupational exposures.
§ 19203-D	<p>Records</p> <p>When a medical record entry is made concerning information of a person's HIV infection status, including the results of an HIV test, the following apply to the release of that information as a part of the medical record.</p> <p>1. AUTHORIZED RELEASE. The person who is the subject of an HIV test, at or near the time the entry is made in the medical record, shall elect, in writing, whether to authorize the release of that portion of the medical record containing the HIV infection status information when that person's medical record has been requested. A new election may be made when a change in the person's HIV infection status occurs or whenever the person makes a new election. The release form must clearly state whether or not the person has authorized the release of that information. The person must be advised of the potential implications of authorizing the release of that information.</p> <p>A. When release has been authorized, the custodian of the medical record may release, upon request, the person's medical record, including any HIV infection status information contained in the medical record. Release of HIV infection status information pursuant to this paragraph is not a violation of any of the confidentiality provisions of this chapter.</p> <p>B. When release has not been authorized, the custodian of the medical record may, upon request, release that portion of the medical record that does not contain the HIV infection status information. Except as otherwise provided in this section, HIV infection status information may be released only if the person has specifically authorized a separate release of that information. A general release form is insufficient.</p> <p>2. AUTHORIZED DISCLOSURE. A medical record containing results of an HIV test may not be disclosed, discoverable or compelled to be produced in any civil, criminal, administrative or other proceedings without the consent of the person who is the subject of an HIV test, except in the following cases:</p> <p>A. Proceedings held pursuant to the communicable disease laws, Title 22, chapter 251;</p> <p>B. Proceedings held pursuant to the Adult Protective Services Act, Title 22, chapter 958-A;</p> <p>C. Proceedings held pursuant to the child protection laws, Title 22, chapter 1071;</p> <p>D. Proceedings held pursuant to the mental health laws, Title 34-B, chapter 3, subchapter IV, article III; and</p> <p>E. Pursuant to a court order upon a showing of good cause, provided that the court order limits the use and disclosure of records and provides sanctions for misuse of records or sets forth other methods for ensuring confidentiality.</p> <p>3. UTILIZATION REVIEW; RESEARCH. Nothing in this section may be interpreted to prohibit reviews of medical records for utilization review</p>

ME Title 5 Code §	Code Language
	<p>purposes by duly authorized utilization review committees or peer review organizations. Qualified personnel conducting scientific research, management audits, financial audits or program evaluation with the use of medical records may not identify, directly or indirectly, any individual patient in any report of such research, audit, evaluation or otherwise disclose the identities of persons tested in any manner.</p> <p>4. ACCESS BY HEALTH CARE PROVIDERS. Nothing in this section may prohibit access to medical records by the designated health care provider of the person who is the subject of an HIV test in accordance with section 19203, subsection 2.</p> <p>5. CONFIDENTIALITY POLICY. Health care providers and others with access to medical records containing HIV infection status information shall have a written policy providing for confidentiality of all patient information consistent with this chapter. That policy must require, at a minimum, action consistent with disciplinary procedures for violations of the confidentiality policy.</p>
§ 19203-F	<p>HIV test after conviction for sexual assault</p> <p>1. DEFINITIONS. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.</p> <p>A. "Convicted offender" means a person who has been convicted of a sexual crime or, in the case of a juvenile, a person who has been adjudicated as having committed a sexual crime.</p> <p>B. "Incapacitated adult" means an adult who is impaired by reason of mental illness, mental deficiency, physical illness or disability to the extent that the individual lacks sufficient understanding or capacity to make or communicate responsible decisions concerning that individual.</p> <p>C. "Sexual crime" means a crime involving a sexual act, as defined in Title 17-A, section 251, subsection 1, paragraph C, subparagraph (1).</p> <p>2. REQUEST FOR TESTING. A person who is the victim of a sexual crime, or that person's parent, guardian or authorized representative if that person is a minor or incapacitated adult, may petition the court at any time prior to sentencing or no later than 180 days after conviction to order the convicted offender to submit to HIV testing and to order that the convicted offender be informed of the test results.</p> <p>3. DUTIES OF THE COURT. Upon receipt of the petition, the court shall order that the convicted offender obtain HIV testing conducted by or under authority of the Department of Human Services and, if requested by the petitioner, that the convicted offender be informed of the test results.</p> <p>4. REPORTING AND COUNSELING. The health care facility in which a convicted offender is tested pursuant to this section shall disclose the results of the test to the victim-witness advocate, who shall disclose the result to the petitioner. The health care facility shall, upon order of the</p>

ME Title 5 Code §	Code Language
	court, disclose the results of the test to the convicted offender.
§ 19204-A	<p>Counseling</p> <p>Except as otherwise provided by this chapter, persons who test positive for of HIV infection must be offered post-test counseling. Persons who are authorized by section 19203-C or 19203-F to receive test results after exposure must be offered counseling regarding the nature, reliability and significance of the HIV test and the confidential nature of the test. Persons offered counseling under this section may decline the offer by signing a waiver stating that counseling has been offered and is being declined.</p> <p>2. POST-TEST COUNSELING. "Post-test counseling" must include:</p> <p>A. Personal counseling that includes, at a minimum, a discussion of:</p> <ol style="list-style-type: none"> 1) The test results and the reliability and significance of the test results . The test provider shall communicate the result confidentially and through personal contact; 2) Deleted. Laws 1995, c. 404, § 15. 3) Information on good preventive practices and risk reduction plans; and 4) Referrals for medical care and information and referrals for support services, including social, emotional support and legal services, as needed; <p>B. An entry in the medical record of the person being counseled summarizing the contents of the discussion; and</p> <p>C. The offer of face-to-face counseling. If the subject of the test declines, the provider of the test may provide an alternative means of providing the information required by paragraph A.</p> <p>3, 4. REPEALED. Laws 1987, c. 811, § 8.</p> <p>5. WRITTEN INFORMATION TO PERSON BEING COUNSELED. To comply with the requirements of this section regarding post-test counseling, in addition to meeting the requirements of subsection 2, the provider of an HIV test shall give to the person being counseled a written document containing information on the subjects described in subsection 2, paragraph A.</p>
§ 19204-B	<p>Restrictions on requiring tests or results of tests</p> <p>1. EMPLOYEE TESTING. An employee or applicant for employment may not be required to submit to an HIV test or reveal whether the employee or applicant for employment has obtained an HIV test as a condition of employment or to maintain employment, except when based on a bona fide occupational qualification. The Maine Human Rights Commission shall enforce this subsection.</p> <p>2. EMPLOYEE RIGHTS. The employment status of any employee may not be affected or changed:</p>

ME Title 5 Code §	Code Language
	A. If the employee declines to be tested
§ 19204-C	Restrictions upon revealing HIV antibody test results An insurer, nonprofit hospital or medical services organization, nonprofit health care plan or health maintenance organization may not request any person to reveal whether the person has obtained a test for the presence of antibodies to HIV or a test to measure the virus or to reveal the results of such tests taken prior to an application for insurance coverage.

Title 22: Health and Welfare

ME Title 22 Code §	Code Language
§ 832	<p>Judicial consent to blood-borne pathogen test</p> <p>1. PETITION. Any person who experiences a bona fide occupational exposure may petition the District Court with jurisdiction over the facility or other place where the exposure occurred to require the person whose blood or body fluid is the source of the exposure to submit to a blood-borne pathogen test and to require that the results of the test be provided to the petitioner as long as the following conditions have been met:</p> <p style="padding-left: 40px;">A. The exposure to blood or body fluids creates a significant risk of infection with a blood-borne pathogen, as defined by the Bureau of Health through the adoption of rules;</p> <p style="padding-left: 40px;">B. The authorized representative of the employer of the person exposed has informed the person whose blood or body fluid is the source of the occupational exposure and has sought to obtain written informed consent from the person whose blood or body fluid is the source of the exposure; and</p> <p style="padding-left: 40px;">C. Written informed consent was not given by the person whose blood or body fluid is the source of the exposure and that person has refused to be tested.</p> <p>2. PREHEARING DUTIES OF THE COURT. Upon receipt by the District Court of the petition, the court shall:</p> <p style="padding-left: 40px;">A. Schedule an expedited hearing;</p> <p style="padding-left: 40px;">B. Cause a written notice of the petition and hearing to be given, in accordance with the Maine Rules of Civil Procedure, to the patient who is the subject of the proceeding;</p> <p style="padding-left: 40px;">C. Appoint counsel, if requested, for any indigent client not already represented; and</p> <p style="padding-left: 40px;">D. Furnish counsel with copies of the petition.</p> <p>3. HEARING. The hearing is governed as follows.</p> <p style="padding-left: 40px;">A. The hearing must be conducted in accordance with the Maine Rules of Evidence and in an informal manner consistent with orderly procedure.</p> <p style="padding-left: 40px;">B. The hearing is confidential and must be electronically or stenographically recorded.</p> <p style="padding-left: 40px;">C. The report of the hearing proceedings must be sealed. A report of the hearing proceedings may not be released to the public, except by permission of the person whose blood or body fluid is the source of the exposure or that person's counsel and with the approval of the court.</p> <p style="padding-left: 40px;">D. The court may order a public hearing at the request of the person whose blood or body fluid is the source of the exposure or that person's counsel.</p> <p>4. DETERMINATION. The court shall require the person whose blood or body fluid is the source of the exposure to obtain a blood-borne pathogen test and shall require that the results of the test be provided to the petitioner only if the petitioner proves by a preponderance of the evidence that:</p>

ME Title 22 Code §	Code Language
	<p>A. The exposure to blood or body fluids of the person created a significant risk of infection with a blood-borne pathogen as defined by the Bureau of Health through the adoption of rules;</p> <p>B. An authorized representative of the employer of the person exposed has informed the patient of the occupational exposure and has sought to obtain written informed consent from the person whose blood or body fluid is the source of the exposure; and</p> <p>C. Written informed consent was not given by the person whose blood or body fluid is the source of the exposure and that person has refused to be tested.</p> <p>5. CONSENT. The court may not order a person whose blood or body fluid is the source of the exposure to obtain a blood-borne pathogen test unless the employee exposed to the blood or body fluids of that person has consented to and obtained a blood-borne pathogen test immediately following that documented exposure.</p> <p>6. COSTS. The employer of the person exposed is responsible for the petitioner's reasonable costs related to obtaining the results of a blood-borne pathogen test pursuant to this section, including the payment of the petitioner's attorney's fees.</p> <p>7. APPEALS. A person required to undergo a blood-borne pathogen test may appeal the order to Superior Court. The appeal is limited to questions of law. Any findings of fact of the District Court may not be set aside unless clearly erroneous.</p> <p>8. SUBSEQUENT TESTING. Subsequent testing arising out of the same incident of occupational exposure must be conducted in accordance with this section.</p>
§ 833	<p>Confidentiality</p> <p>No other disclosure of HIV test results may be made without written authorization from both the person tested and the person exposed.</p>
§ 1823	<p>Treatment of minors</p> <p>Any hospital licensed under this chapter or alcohol or drug treatment facility licensed pursuant to section 7801 that provides facilities to a minor in connection with the treatment of that minor for venereal disease or abuse of drugs or alcohol or for the collection of sexual assault evidence through a sexual assault forensic examination is under no obligation to obtain the consent of that minor's parent or guardian or to inform that parent or guardian of the provision of such facilities so long as such facilities have been provided at the direction of the person or persons referred to in Title 32, sections 2595, 3292, 3817, 6221 or 7004. The hospital shall notify and obtain the consent of that minor's parent or guardian if that hospitalization continues for more than 16 hours.</p>

ME Title 22 Code §	Code Language
§ 3022	Office of Chief Medical Examiner 15. Testing for HIV. Notwithstanding Title 5, chapter 501, the Chief Medical Examiner in a medical examiner case may test for the human immunodeficiency virus and may disclose the test result as authorized under subsection 12.[2001, c. 221, §5 (new).]

Title 24-A: Maine Insurance Code

ME Title 24-A Code §	Code Language
§ 2159	<p>Unfair discrimination--life insurance, annuities and health insurance</p> <p>1. No person shall make or permit any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract.</p> <p>2. No person may make or permit any unfair discrimination between individuals of the same class and of essentially the same hazard in the amount of premium, policy fees, or rates charged for any policy or contract of health insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever. Nothing in this provision prohibits an insurer from providing incentives for insureds to use the services of a particular provider.</p> <p>3. It shall be an unfair trade practice in the business of insurance for any insurer to discriminate unfairly against any person who has tested positive for the presence of the human immunodeficiency antigen or the presence of an antibody to the human immunodeficiency virus or who has Acquired Immune Deficiency Syndrome or AIDS, AIDS Related Complex (ARC) or HIV related diseases provided that nothing in this subsection prohibits an insurer from treating individuals of different classes and of unequal expectations of life, or essentially different hazards, differently in accordance with subsection 1 or 2.</p> <p>4. It shall not be unfair discrimination for group life insurance policies or contracts subject to chapter 31 to contain an exclusion or restriction for death caused by Acquired Immune Deficiency Syndrome (AIDS), AIDS Related Complex (ARC) or HIV related diseases which existed 6 months prior to the individual's effective date of insurance if an actuarial justification is filed and approved by the superintendent. The exclusion or restriction may run for no longer than the incontestable period of the policy within the meaning of section 2615.</p> <p>5. DEFINITIONS. As used in this section, "HIV" and "antibody to HIV" have the same meanings as set out in Title 5, section 19201.</p> <p>6. TEST RESULTS. No insurer may request any person to reveal whether the person has obtained a test for the presence of antibodies to HIV or a test to measure the virus or to reveal the results of such tests taken prior to an application for insurance coverage.</p>

Title 24: Insurance

ME Title 24 Code §	Code Language
§ 2332-B	<p>Acquired Immune Deficiency Syndrome</p> <p>1. DEFINITIONS. As used in this section, "HIV" and "antibody to HIV" have the same meanings as set out in Title 5, section 19201.</p> <p>2. PROHIBITIONS. No individual or group hospital, medical or health care service contract delivered or issued for delivery in this State, other than a contract that provides benefits for specific diseases or accidental injuries only, may provide more restrictive coverage for Acquired Immune Deficiency Syndrome, or AIDS, AIDS Related Complex, or ARC, HIV-related diseases or for related services, than for any other disease or sickness, or exclude coverage for AIDS, ARC or HIV-related diseases, except through an exclusion under which all diseases and sicknesses are treated equally.</p> <p>3. TEST RESULTS. No nonprofit hospital or medical services organization or nonprofit health care plan may request any person to reveal whether the person has obtained a test for the presence of antibodies to HIV or a test to measure the virus or to reveal the results of such tests taken prior to an application for coverage.</p>

Code of Maine Rules	
----------------------------	--

Title 02 CMR	Code Language
02.031.490	<p>DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION</p> <p>BUREAU OF INSURANCE</p> <p>ACQUIRED IMMUNE DEFICIENCY SYNDROME AND MEDICAL AND LIFESTYLE STANDARDS RULE</p> <p>Section 2. Purpose</p> <p>The purpose of this rule is to clarify the standards applicable to written informed consent forms required to be completed by persons required to take a test for the presence of the antibody to the Human Immunodeficiency Virus (HIV) or for the Human Immunodeficiency Antigen by an insurer, nonprofit hospital service organization, nonprofit medical service organization, or a nonprofit health care plan, to establish standards for pretest and post-test counseling required to be provided to persons subject to testing as required by 5 M.R.S.A. Section 19203-A, and to establish standards for medical and lifestyle application questions and underwriting.</p> <p>Section 3. Definitions</p> <p>A. "Informed Consent" means consent to testing for the presence of antibodies to the Human Immunodeficiency Virus or for the presence of the Human Immunodeficiency Antigen. The Informed Consent shall be based on an actual understanding by the person to be tested:</p> <ol style="list-style-type: none"> 1. That the test is being performed; 2. Of the nature of the test; 3. Of the persons to whom the results of that test may be disclosed; 4. Of the purpose for which the test results may be used; and 5. Of any reasonably foreseeable risks and benefits resulting from the test. <p>The informed consent shall be wholly voluntarily and free from express or implied coercion.</p> <p>B. "Antibodies" to HIV means the specific immunoglobulin produced by the body's immune system in response to HIV.</p> <p>C. "HIV" means the Human Immunodeficiency Virus identified as the causative agent of Acquired Immune Deficiency Syndrome or AIDS.</p>

Title 02 CMR	Code Language
	<p>D. "HIV Antigen" means the specific immune-recognizable marker protein of HIV.</p> <p>E. "HIV Infection" means the state where HIV invades the body and is believed to be present in the body as indicated by a repeatedly positive enzyme immunoassay (EIA), and confirmed by a positive Western Blot immunofluorescence assay, or other generally accepted secondary level testing.</p> <p>F. "HIV Test" means a test which tests for the presence of the antibody to HIV or a test for an HIV antigen.</p> <p>G. "Nonprofit Entity" means a nonprofit hospital or medical service organization or a nonprofit health care plan.</p> <p>H. "Pretest Counseling" for persons required to take an HIV test by an insurer, nonprofit hospital service organization, nonprofit medical service organization, or nonprofit health care plan shall be defined pursuant to 5 M.R.S.A. Section 19204-A, Subsection 1.</p> <p>I. "Post-Test Counseling" for persons required to take an HIV test by an insurer, nonprofit hospital or medical service organization, or health care plan shall be defined pursuant to 5 M.R.S.A. Section 19204-A, Subsection 2.</p> <p>J. "Superintendent" means Superintendent of Insurance.</p> <p>Section 3-A. Approval Required</p> <p>No insurer, nonprofit hospital or medical service organization or nonprofit health care plan shall test applicants for HIV unless the test has been approved by the United States Food and Drug Administration for such use.</p> <p>Section 4. Medical and lifestyle application questions and underwriting standards</p> <p>A. No question shall be used on an application for insurance which is designed to establish the sexual orientation of the applicant. Specifically prohibited practices include, but are not limited to, utilization of the marital status, "living arrangements," occupation, gender, medical history, beneficiary designation, or zip code or other territorial classification of an applicant to establish or aid in establishing the applicant's sexual orientation.</p> <p>B. No question shall be used which requests an applicant to reveal whether the person has obtained an HIV test or the results of an HIV test taken prior to the application for insurance coverage.</p> <p>C. Questions relating to medical and other factual matters intending to</p>

Title 02 CMR	Code Language
	<p>reveal the possible existence of a medical condition are permissible if they are not used in order to establish the sexual orientation of the applicant.</p> <p>D. Questions relating to the applicant's having or having been diagnosed as having or having been advised to seek treatment for a sexually transmitted disease are permissible.</p> <p>E. For purposes of rating an applicant for health and life insurance, an insurer may impose territorial rates, but only if the rates are based on sound actuarial principles and are related to actual or reasonably anticipated experience.</p> <p>F. No decisions concerning rates, rating classification, limitations to coverage, or insurability of any person shall be made because an applicant has demonstrated AIDS-related concerns by seeking counseling from health care professionals.</p> <p>G. No decisions concerning rates, rating classification, limitations to coverage, or insurability of any person shall be made on the basis of information concerning an applicant's sexual orientation.</p> <p>H. No insurer or nonprofit entity may make any decision concerning rates, rating classification, limitations to coverage, or insurability of any person on the basis of T-cell tests. Insurers and nonprofit entities may utilize T-cell tests in order to determine whether further diagnostic tests are necessary.</p> <p>I. Any failure to comply with the terms of this section shall be deemed an unfair trade practice within the meaning of Chapter 23 of the Insurance Code (Title 24-A). The remedies provided in Chapter 23 shall not be exclusive but shall be in addition to any other remedies available by law.</p> <p>Section 5. Informed consent to AIDS testing</p> <p>A. Title 5 M.R.S.A. Section 19203-A, subsection 1 requires insurers and nonprofit entities which require applicants for coverage to take HIV tests to obtain the written informed consent of the person to be tested. Informed Consent forms as required by 5 M.R.S.A. Section 19203-A shall be filed with the Superintendent of Insurance consistent with 24-A M.R.S.A. Section 2412 and subject to Bulletin 126 24-A § 601 filing fee requirements.</p> <p>B. The Informed Consent forms may be in the standardized format provided by Attachment A. The form may be filed in a different format if the basis for each divergence from the standardized form is explained by the insurer or nonprofit entity and the Superintendent finds that the proposed form includes all the information contained in the standard form and is not inaccurate, misleading, or inconsistent with any</p>

Title 02 CMR	Code Language
	<p>applicable law or rule.</p> <p>C. When an Informed Consent form is filed with the Superintendent for approval, the following disclosure shall also be provided by the insurer or nonprofit entity:</p> <ol style="list-style-type: none"> 1. HIV testing protocol employed; 2. Manner of reporting HIV test results to the Medical Information Bureau (MIB); 3. Nature of written AIDS informational materials provided to the applicant, including copies of material if not widely available; 4. Manner of providing pretest counseling; and 5. Manner of providing post-test counseling. <p>At least 30 days prior to implementing any change in the procedures or material disclosed in Paragraphs 1 through 5, the insurer or nonprofit entity shall file any proposed changes with the Superintendent.</p> <p>D. The Informed Consent form shall not be approved if the disclosure provided pursuant to Subsection C, Paragraphs 1 through 5 indicates that the insurer or nonprofit entity has not complied with relevant provisions of Maine law or this Rule.</p> <p>E. Each insurer utilizing a written form as proof of the process of obtaining the informed consent of applicants for insurance to take an HIV test shall read that form aloud to the applicant prior to his or her signing of the form.</p> <p>F. If an applicant is required to submit a second sample for testing, notification of this requirement shall be in writing, and shall include notification of the continued availability of pre and post-test counseling.</p> <p>Section 6. Counseling</p> <p>A. Pretest and Post-test Counseling may be performed by a licensed physician, licensed psychologist, licensed clinical social worker, licensed nurse, or qualified and registered physician's assistant. Licensing or registration shall be by the State of Maine or, when the applicant seeks counseling in another jurisdiction, by a jurisdiction with similar licensing requirements. For the purpose of this Rule, counseling performed by one of the referenced professionals shall be called Professional Counseling.</p> <p>B. Pretest and Post-test Counseling may also be performed by any person who has completed a course in AIDS counseling under the direction of the Maine Department of Human Services. For the purpose</p>

Title 02 CMR	Code Language
	<p>of this Rule, counseling provided by a person who has completed the prescribed course and who is not a professional of a type listed in subsection (2 A) shall be called Voluntary Counseling.</p> <p>Section 7. Pretest counseling</p> <p>A. Professional Pretest Counseling shall be available to all applicants whether or not Voluntary Pretest Counseling is available. Professional Counseling shall be provided by the professional selected by the applicant. The applicant cannot be required to obtain Professional Counseling from a counselor named on a selective list.</p> <p>B. The insurer or nonprofit entity may elect to provide applicants with Voluntary Counseling as an alternative to Professional Counseling. Voluntary Counseling shall be at no cost to the applicant.</p> <p>C. Where both Voluntary and Professional Pretest Counseling are available, the applicant may elect to have either Voluntary or Professional Counseling.</p> <p>D. Prior to or at the time an applicant is requested to obtain an HIV Test the insurer or nonprofit entity shall notify the applicant:</p> <ol style="list-style-type: none"> 1. Of the availability of Pretest Counseling; and 2. That the insurer or nonprofit entity will pay the lesser of \$30 or the usual and customary charge for one session of professional Pretest Counseling or Voluntary Counseling, if available, received by the applicant. <p>(Drafting Note: The Maine Department of Human Services has recommended that certain information be considered at a Pretest Counseling session. The Department's current recommendations are contained in Attachment B.)</p> <p>Section 8. Waiver of pretest counseling</p> <p>An applicant may waive receipt of pretest counseling by signing a pretest counseling waiver form. Waiver of pretest counseling may occur only after the applicant has given informed consent to HIV testing. The waiver of pretest counseling shall be on a separate form which has been approved by the Superintendent.</p> <p>At a minimum, the waiver form shall contain the following statements:</p> <p>A. That the applicant has been advised of the availability of Professional and Voluntary Pretest Counseling and of the insurer or nonprofit entity's obligations to pay up to \$30 for one session of Professional Counseling or Voluntary Counseling, if available;</p>

Title 02 CMR	Code Language
	<p>B. That the applicant has voluntarily waived pretest counseling after having signed a written informed consent form, which has been read aloud to him or her; and</p> <p>C. That neither the insurer nor its agent required or encouraged the applicant to sign the waiver.</p> <p>Section 9. Post-test counseling</p> <p>A. Prior to or at the time an applicant is requested to obtain an HIV Test, the insurer or nonprofit entity shall notify the applicant of the availability of Post-test Counseling.</p> <p>B. Professional Post-test Counseling shall be available to all applicants whether or not Voluntary Post-test Counseling is available. Professional Counseling shall be provided by the professional selected by the applicant. The applicant may seek Professional Counseling from the counselor of his/her choice.</p> <p>C. Where both Voluntary and Professional Post-test Counseling are available, the applicant may elect to have either Voluntary or Professional Counseling.</p> <p>D. Negative HIV Results. If HIV test results are negative, post-test counseling shall be provided to the applicant unless a waiver has been signed by the applicant as provided for in Section 10.</p> <p>E. Positive or Indeterminate Test Results.</p> <p>At or prior to the time positive or indeterminate HIV Test results are released to the person designated by the applicant or prior to the time positive or indeterminate HIV Test results are released to the applicant, if no physician or other person is designated by the applicant, the insurer or nonprofit entity shall notify the person designated or the applicant:</p> <ol style="list-style-type: none"> 1. Of the availability of HIV Post-test Counseling; and 2. That the insurer or nonprofit entity will pay the less of \$30 or the usual and customary charge for one session of Professional or Voluntary Post-test Counseling received by the applicant. <p>(Drafting Note: The Maine Department of Human Services has recommended that certain information be considered at a Post-test Counseling session. The Department's current recommendation is contained in Attachment C.)</p> <p>Section 10. Waiver of post-test counseling</p> <p>A. At or prior to the time that test results are released to the person</p>

Title 02 CMR	Code Language
	<p>designated by the applicant or prior to the time HIV test results are released to the applicant if no health care provider is designated by the applicant, the applicant may waive receipt of post-test counseling by signing a post-test counseling waiver form. This waiver of post-test counseling shall only be effective in the event test results are negative. The waiver of post-test counseling shall be on a separate form which has been approved by the Superintendent.</p> <p>At a minimum, the waiver form shall contain the following statements:</p> <ol style="list-style-type: none"> 1. That the applicant has been advised of the availability of Post-test Professional Counseling and of the insurer or nonprofit entity's obligation to pay up to \$30 for one session of Professional Counseling or Voluntary Counseling, if available; and 2. That the applicant has voluntarily waived Post-test Counseling, and that neither the insurer nor nonprofit entity nor its agent required or encouraged the applicant to sign the waiver. <p>B. In the event of positive or indeterminate test results and in the event that the applicant has not designated a health care provider to receive test results, the insurer shall provide written notification to the applicant that an abnormal test result has been obtained, recommend that a health care provider be authorized to receive test results, and recommend the applicant consult that provider.</p> <p>Section 11. Medical Information Bureau</p> <p>If Positive HIV test results are reported to the Medical Information Bureau they shall be reported in a nonspecific manner, as generic blood disorders.</p>

Code of Maine Rules – Title 03: Department of Corrections
--

Title 03 CMR	Code Language
03.201.11	<p>CONTINGENCY PLAN (#2) FOR TESTING AND RELEASE OF INFORMATION PERTAINING TO THE PRESENCE OF ANTIBODIES OR ANTIGENS FOR HUMAN IMMUNODEFICIENCY VIRUS</p> <p>PROCEDURE:</p> <p>1. If a juvenile/prisoner makes a request of a staff person to be tested for HIV antibodies and/or antigens, he shall be referred to the medical service for that facility. Facilities which do not have medical services within their staffing shall refer that individual to their contractual medical services.</p> <p>No more than two requested HIV antibody or antigen tests will be provided per year unless medically recommended by the physician providing care to the juvenile/prisoner.</p> <p>2. Staff preferably medical, who are counseling juveniles/prisoners regarding this testing shall have had training in this area which must have been approved by the Director of Correctional Programs in consultation with the Maine Bureau of Health of the Department of Human Services.</p> <p>3. The juvenile/prisoner shall be informed that test results will be treated as confidential information but may be disclosed as follows:</p> <p>a. To the juvenile/prisoner tested;</p> <p>b. To the medical staff at the facility where he is housed or one to which he may be transferred in the future;</p> <p>c. To the Chief Administrative Officer of the facility where he is housed;</p> <p>d. To the Commissioner of Corrections;</p> <p>e. To any staff of the Department of Corrections responsible for the treatment or care of the juvenile/prisoner, excluding staff of the Division of Probation and Parole, and who is authorized to have such information by the Commissioner of Corrections and/or the Chief Administrative Officer of the facility. Such treatment or care may include, but not be limited to, treatment or care which may be provided by teachers, social workers, correctional officers, psychologists, and counselors.</p> <p>4. After the juvenile/prisoner has been counseled about the HIV antibody and/or antigen testing, he will be asked to make a determination whether or not he still wishes to have the test performed.</p> <p>5. If the juvenile/prisoner wishes to be tested, he is to sign a "Maine Department of Corrections Informed Consent to Test for HIV Antibodies</p>

Title 03 CMR	Code Language
	<p>and/or Antigens". See Attachment A.</p> <p>6. When the test results have been returned to the medical service, a medical staff person will inform the juvenile/prisoner of the test results and will conduct the necessary counseling. Test results will become part of the information in the juvenile's/prisoner's medical folder. The Chief Administrative Officer of that facility shall be informed of the test results by the medical service.</p> <p>7. The Chief Administrative Officer and the Commissioner of Corrections shall ensure that any staff members who have been permitted to know the test results are informed of the name of the juvenile/prisoner and the test results.</p> <p>8. The Chief Administrative Officer shall ensure that the Director of Correctional Programs is informed of any HIV positive test results. The Director of Correctional Programs shall provide the necessary forms and instructions for reporting such information.</p> <p>9. When a juvenile/prisoner is transferred from one correctional facility to another correctional facility within the Department, to a county jail, to a federal correctional facility or to another state's correctional facility (but excluding any other transfer outside of the Maine Department of Corrections), the medical records being transferred are to contain the results from any HIV and/or antigen testing.</p> <p>10. Information being sent outside of the Department of Corrections or to the Division of Probation and Parole cannot contain the results of an HIV and/or antigen test, except as in procedure 9 above, unless the juvenile/prisoner has signed a Release of Information form giving specific permission to do so. See #14.</p> <p>11. When a juvenile/prisoner who has had a positive test is being released to the supervision of the Division of Probation and Parole the Chief Administrative Officer of the correctional facility from which the Juvenile/prisoner is being released is responsible to ensure that information pertaining to test results of an HIV antibody or antigen test is not forwarded to the Division of Probation and Parole unless the juvenile/prisoner voluntarily signs an "Authorization for the Disclosure of Information Acquired by Virtue of HIV Testing (AIDS Testing)* form giving specific permission for such disclosure. See procedure 14 and Attachment B.</p> <p>12. Except as expressly authorized above, no staff person is authorized to release the results of an HIV and/or antigen test of the Juvenile/prisoner without prior written Release of Information form, which has been properly executed. See #14.</p> <p>13. Any staff person to whom HIV and/or antigen test results are disclosed shall be expressly informed that any further disclosure to anti</p>

Title 03 CMR	Code Language
	<p>person or agency is prohibited by Departmental policy and also may be a violation of law. Indirect disclosure to another person is prohibited, such as by way of informal discussion and by way of actions which imply that the person tested is to be avoided. Disciplinary action shall be taken for any prohibited disclosure. In addition, legal action may be taken.</p> <p>14. The following are the guidelines and forms to be used as it pertains to procedure No. 10 and No. 12:</p> <p>A. It is recommended at correctional facilities that the person who has been designated to do the counseling as it pertains to HIV antibodies or antigens be the person that would be responsible for requesting permission from the juvenile/prisoner to release the test results and having the form signed. See Attachment S.</p> <p>B. Prior to the release of any information of antibodies or antigens for HIV under procedures No. 10 and No. 12, the designated person must meet with the juvenile/prisoner whose test results are involved and have them complete Department of Corrections Authorization for the Disclosure of Information Acquired by virtue of HIV Testing (AIDS) Testing." See Attachment S. By completion of this form, the juvenile/prisoner and parent, if necessary, gives the Department permission to release to the person or agency listed, information as it pertains to the test results involved with that particular juvenile's/prisoner's treatment. A listing can be by name or by category (example: nurses, doctors, etc.). If, for example, a juvenile/prisoner had listed on the form that he gave permission for this information to go only to Dr. Smith, then for that information to be given to anyone else under procedures No. 10 and No. 129 he would have to complete another form designating who else that information is to go to. In completing the form, the section dealing with the reasons or purpose for which the information is being given must relate to the named individual or category of person or agency.</p> <p>C. The juvenile/prisoner and parent or guardian if necessary, must check if he waived his right to review the material before it was sent or if he has reviewed the material to be sent. Once again, if the juvenile/prisoner and parent or guardian, if necessary, waives his right to review the material, that means that the person designated to be responsible to send the information would not have to have the juvenile/prisoner and parent or guardian, if necessary, see the material and sign a paper saying he has seen it prior to it being sent. If the juvenile/prisoner and parent or guardian, if necessary, does not waive his right, then this form can only be completed when he has checked that he has reviewed the material prior to it being sent.</p> <p>D. The juvenile/prisoner, parent or guardian, if necessary is to sign the form and enter the date of his signature in the presence of who is going to sign as witness.</p>

Title 03 CMR	Code Language
	<p>E. A signature of the parent or guardian of a juvenile is needed even if the juvenile has signed the form. The Superintendent of the Maine Youth Center may not sign in the place of parent or guardian for a juvenile.</p> <p>F. The person assisting the juvenile/prisoner, parent or guardian, if necessary, completing this form should sign and date as witness.</p>

Code of Maine Rules – Title 10: Department of Health and Human Services
--

Title 10 CMR	Code Language
10.144.101	<p>CHAPTER 101: MAINECARE BENEFITS MANUAL</p> <p>SECTION 1: PRIMARY CARE CASE MANAGEMENT</p> <p>1.05-1 Services Not Managed by PCPs</p> <p>Certain services contained within the service categories listed in Section 1.04 may be accessed directly by members, i.e., without a PCP's referral. The particular services for which a member may self-refer are:</p> <p>a. Family planning services. The following services may be obtained by a member without a PCP referral: (i) health education and counseling necessary to make informed choices and understand contraceptive methods; (ii) distribution of information on family planning; (iii) consultation, examination and medical treatment including, but not limited to, treatment of urinary tract infection or "UTI". (iv) diagnosis and treatment of sexually transmitted diseases (STDs), including lab tests; (v) screening, testing and counseling for human immunodeficiency virus (HIV); (vi) provision of contraceptive pills, devices, and supplies; and (vii) diagnosis of infertility;</p> <p>SECTION 30: FAMILY PLANNING AGENCY SERVICES</p> <p>30.04 Covered Services</p> <p>A covered service is a service for which payment to a provider is permitted under this section of the Maine Medical Assistance Manual. The types of Family Planning Agency services are as described in subsections 30.04-1 through 30.04-9.</p> <p>30.04-1 Medical Contraceptive Care</p> <p>Medical Contraceptive Care refers to an annual visit furnished no more frequently than once every 11 months, approximately 1 hour in length, which visit must include:</p> <p>D. Physical examination of the reproductive organs including a Pap smear and breast exam for women, and, when indicated, a screening for gonorrhea, chlamydia, condyloma, HSV, hepatitis B, HIV, and vaginal infections. If a Pap smear has been furnished within the preceding 12 months by another provider and the results of a negative smear are documented in the client's chart, the repetition of this exam will not be reimbursed. If a Pap smear</p> <p>30.04-4 Early Prenatal Services (cont.)</p> <p>B. Counseling, education and risk assessment at initial prenatal visit</p>

Title 10 CMR	Code Language
	<p>including appropriate written material to reinforce instruction given at visit.</p> <p>- sexually transmitted diseases, including HIV risk</p>
10-144-258.2A	<p>2. NOTIFIABLE CONDITIONS</p> <p>A. Who Must Report:</p> <p>(1) Health care providers When attending a case or death from any of the diseases listed in part 2-J, the health care provider shall report to the Department, unless previously reported, the information outlined in part 2-B.</p> <p>(2) Medical laboratories All medical laboratories must provide to the Department the results of microbiologic cultures, examinations, immunologic assays for the presence of antigens and antibodies, and any other laboratory tests that are indicative of the presence of any of the diseases or conditions in part 2-J, regardless of the clinical significance of the test, and the information specified in part 2-B, as known. The medical laboratory must forward to the Health and Environmental Testing Laboratory all clinical isolates as specified in part 2-J.</p> <p>(3) Health care facilities Hospitals, nursing homes, medical clinics, or other health care facilities must require that all individual health care providers report as specified in part 2-A; or the health care facility must designate an infection control practitioner or other person as responsible to report to the Department, within two working days of knowledge of a case, suspect case, carrier, or death from any of the notifiable conditions in part 2-J and the information specified in part 2-B.</p> <p>(4) Administrators Administrators, (or their designees) of other public or private institutions such as penal institutions, nursing homes, schools, and day care centers, shall report any outbreak or epidemic situations prevalent within the institution.</p> <p>(5) Health officers Local health officers shall report any pertinent information related to any case, suspect case, carrier or death from any disease entities listed in part 2-J as requested by the Department.</p> <p>(6) Veterinarians and veterinary medical laboratories The Department shall, under the following circumstances require certain reports of clinical diagnosis of disease in animals and reports of laboratory tests on animals: The disease is common to both animals and humans; The disease may be transmitted directly or indirectly to and between</p>

Title 10 CMR	Code Language
	<p>humans and animals; The persons who are afflicted with the disease are likely to suffer complications, disability, or death as a result; or Investigation based veterinarian and veterinary medical laboratory reports will assist in the prevention and control of disease among humans.</p> <p>(7) Others Unless previously reported, it shall be the duty of every other licensed health care provider who provides care to any patient who has or is suspected of having any of the diseases listed to report to the Department as much of the information outlined as is known. Although those named above are legally responsible for disease reporting, they may delegate the forwarding of reports to others as appropriate or convenient.</p>
10-144-258.2B	<p>B. What to Report:</p> <p>(1) Health care providers Reports shall contain as much of the following information as is known: (a) disease (whether a case, suspected case, carrier, or death); (b) date of first onset of symptoms; (c) patient: (i) name; (ii) birthdate; (iii) race; (iv) ethnicity; (v) sex; (vi) occupation (if known); (vii) residence address, city, county, and zip code; (viii) phone number; (ix) place of work, school, or child care; (d) date of report; (e) health care provider name, address, and phone number; (f) name of hospital or other health care facility (if any); (g) name of person reporting (if not health care provider); (h) all diagnostic laboratory findings and dates of test relevant to the notifiable condition regardless of clinical significance; (i) name and locating information of contacts; (j) other information pertinent to the case, as requested by the Department. (k) if animal species – specify</p> <p>(2) Medical laboratories: Reports shall contain as much of the following information as is known: (a) diagnostic laboratory findings and dates of test; (b) name of person/medical laboratory reporting; (c) health care provider or veterinarian name, address and phone number; (d) patient;</p>

Title 10 CMR	Code Language
	<p>(i) name; (ii) birthdate; (iii) residence address.</p> <p>(3) Health care facilities: same as for health care providers.</p> <p>(4) Administrators of all other public or private institutions: (a) constellation of symptoms exhibited; (b) number of individuals affected.</p> <p>(5) Health officers: any information that is relayed by health care providers, hospital administrators or persons in charge of public or private institutions.</p> <p>(6) Veterinarians and veterinary medical laboratories: (a) disease (whether a case, suspected case, carrier or death); (b) date of first symptoms; (c) name of veterinarian/laboratory reporting; (d) diagnostic laboratory findings and dates of test; (e) other information pertinent to the case as requested by the Department.</p> <p>(7) Others: same as for health care providers.</p>
10-144-258.2G	<p>G. Confidentiality:</p> <p>The name and related information which may identify individuals reported to the Department shall remain confidential and may be released only to other public health and school officials or agencies for public health purposes, or to the Department for adult or child protection purposes in accordance with 22 MRSA, Chapters 958-A and 1071. In an extreme public health emergency, the information may also be released to private health care providers and agencies for the purpose of preventing further disease transmission. By law, no person, official or institution complying with reporting requirements shall be held liable for any civil damage as a result of such act. No person may disclose the results of an HIV test except as permitted in 5 MRSA, Section 19203.</p> <p>Disease reporting information collected from health care providers, laboratories, hospitals or other institutions, and from patients themselves, is considered confidential and data released to the public, the media, or other agencies may not contain potentially identifying information, unless otherwise specified in these rules.</p>
10.148.24	<p>RULES ON THE DISCLOSURE OF HIV STATUS INFORMATION ON A CHILD IN THE CUSTODY OF THE DEPARTMENT OF HUMAN SERVICES</p> <p>I. DISCLOSURE OF HIV TEST RESULTS TO EMPLOYEES OF THE DEPARTMENT OF HUMAN SERVICES</p>

Title 10 CMR	Code Language
	<p>A. The results of an HIV test of a child in the legal custody of the Department of Human Services may be disclosed to a Department employee who has any one or a combination of the following responsibilities for the child who was the subject of the tests, provided that the HIV test results are relevant and necessary to the employees decisions and actions relative to the care or treatment of that child. These responsibilities include:</p> <ol style="list-style-type: none"> 1. Assessment of the child's needs, short and long term planning regarding the child, decision-making regarding the care, treatment, supervision, placement, and/or safety of the child, or any other activities necessary to discharge the Department's parental rights and responsibilities for the child, or 2. Formulation and/or presentation of an appropriate plan for the child and the bases of this plan to a courts or. 3. Monitoring or review of the appropriateness of the Department's plans and actions relative to the child, or 4. Submission of applications for third party benefits for the child. <p>B. A Department employee who receives HIV status information may not disclose the results further except as permitted in Title 5 MRSA Section 19203.</p> <p>II. DISCLOSURE OF HIV TEST RESULTS TO OTHER PERSONS</p> <p>A. The results of an HIV test of a child in the legal custody of the Department may be disclosed by a designated Department employee to any of the following designated persons provided that information is relevant and necessary in order for the child to receive appropriate care or treatment:</p> <ol style="list-style-type: none"> 1. A person responsible for regular day-to-day 24 hour care and supervision of the child. 2. A parent of the child who was the subject of the test provided his parental rights to the child have not been terminated by a court. 3. A person responsible for developing a plan for the child based on the child's needs and/or presenting such a plan as part of a court proceeding. These include but are not limited to Assistant Attorneys General assigned to the cases guardians ad litem, Court Appointed Special Advocates (CASAs), and persons with responsibilities under the Interstate Compact on the Placement of Children. 4. A person temporarily providing care and -supervision to the child as a supplement to care provided by 1. This includes but is not limited to, day

Title 10 CMR	Code Language
	<p>care providers, respite care providers.</p> <p>5. A person who is willing and able to provide regular 24-hour, residential care to a child with special medical considerations but needs to know specific health status information in order to decide whether to accept the child for care, provided the identity of the child is protected or that the information is disclosed solely as a required part of a formal placement or evaluation processor.</p> <p>6. A person who is assigned to, contracted to or responsible to deliver a specific service or services to or for the child provided the knowledge of HIV status is relevant and necessary to the service to be delivered.</p> <p>B. The results of an HIV test of a child in the Department's legal custody will be disclosed by a designated Department employee to a person who holds a current provisional or full license to operate a family foster home in accordance with 22 MRSA, Chapter 1669, and the rules pertaining thereto when such a child is residing in his home.</p> <p>C. In an medical emergency, HIV test results may be disclosed</p> <p>1. By a licensed foster parent or staff person of a licensed children's home who is consenting to emergency treatment in accordance with 22 MRSA §3-B, or</p> <p>2. By a person designated in II.A. if failure to provide or delay in providing this information to the medical care providers would place the child at risk.</p> <p>D. No person designated in II.A. or B. may disclose the results of any HIV test except under the conditions described in II.C. or otherwise permitted under 5 MRSA §19203.</p> <p>E. Upon receipt of any HIV status information any person designated in II.A. or B. shall confirm in writing that he has been informed of the results of an HIV test and of the confidentiality of this HIV status information.</p> <p>III. DISCLOSURE BY OR WITHOUT APPROVAL OF THE SUBJECT OF THE TEST</p> <p>A. The child who is the subject of an HIV test may disclose the results to whomever he chooses. However the child is to be informed to the degree possible of the potential consequences or impact of disclosure.</p> <p>B. A child capable of understanding has the right to know the names of the individuals to whom the Department has disclosed his HIV status and the basis for the disclosure. If a child objects to the Department's disclosure to a particular person., these objections are to be documented in the case record.</p>

Title 10 CMR	Code Language
	<p>C. The Department's custodial rights and responsibilities in loco parentis have precedence over the desire for confidentiality by a child who was the subject of an HIV test and who is in the legal custody of the Department. Therefore.. the desire by the child for HIV test results not to be disclosed to any one or more of the persons designated in Sections I and II of these rules does not prevent disclosure as set forth in these rules.</p>
10.148.39	<p>RULES GOVERNING DISCLOSURE OF HIV TEST RESULTS REGARDING ADULT PUBLIC WARDS</p> <p>STANDARDS</p> <p>A. Requests for and authorization of tests for a communicable disease, including an HIV test of a public ward, may be authorized by Division Regional staff, after consultation with a Central Office Duly Authorized Agent: namely, the Public Guardianship Program Manager, Division Director, or Adult Protective Services Program Manager.</p> <p>B. HIV test results, either positive or negative, shall be kept confidential except as outlined in the following sections of C, D, or E.</p> <p>C. HIV test results may be disclosed to the following designated Division staff:</p> <ol style="list-style-type: none"> 1. the assigned Caseworker, 2. the assigned Caseworker's Supervisor, 3. the Regional Program Manager, and 4. a Central Office Duly Authorized agent. <p>D. The decision to disclose HIV test results to others inside or outside of the Division shall be made by a Central office Duly Authorized Agent Disclosure to others may be made as follows:</p> <ol style="list-style-type: none"> 1. to those responsible for treatment of the ward, including medical and psychiatric; 2. to those responsible for care of the ward when the care includes nursing care; 3. to those responsible for care of the ward if that responsibility includes twenty-four hour supervision of the ward; and 4. to a court through testimony when that medical information is relevant, and to the attorney representing the Department.

Title 10 CMR	Code Language
	<p>E. Confidentiality of records:</p> <ol style="list-style-type: none"> 1. Division records containing written information on any communicable disease, with the exception of HIV infection status information, shall be kept in the medical section of the Regional case records. 2. Written information on HIV infection status shall be kept in a Central Office confidential medical file, which will require a specific and separate authorization for release 3. There shall be no written information on HIV infection status in Regional case records. Any actions taken for medical reasons shall be documented in general in the Regional case record and shall include a reference to further medical information in the Central Office medical file. 4. Disclosure to designated Division staff and to others, as outlined in section C and D, shall be oral disclosure, only. 5. Upon receipt of HIV status information, any person authorized to receive such information under these rules shall sign a statement acknowledging receipt of this information and informing them of confidentiality requirements. They may not further disclose the test results, except to the extent authorized by law. These statements shall be kept in the Central Office confidential medical file. <p>F. The Division will cooperate with other Department Bureaus to coordinate planning on behalf of a public ward who has been diagnosed as infected with a communicable disease.</p>
10.149.5	<p>SECTION 15: ADULT PROTECTIVE SERVICES: GUARDIANSHIP/CONSERVATORSHIP</p> <p>15.10 HUMAN IMMUNODEFICIENCY VIRUS</p> <p>(A) Testing. When appropriate, regional staff may authorize testing of public wards for Human Immunodeficiency Virus (HIV,) after consultation with a PPA , Director of Regional Operations, or Bureau Director.</p> <p>(B) Confidentiality. HIV related information shall be kept confidential except:</p> <p>(1) HIV related information may be disclosed verbally only, if relevant and necessary to the functions and responsibilities of the following designated DHS staff:</p> <ol style="list-style-type: none"> (a) the assigned caseworker; (b) the assigned caseworker's supervisor; (c) the PPA;

Title 10 CMR	Code Language
	<p>(d) Director, Regional Operations;</p> <p>(e) other DHS staff responsible for carrying out the Bureau of Elder and Adult Services ' activities on behalf of a ward.</p> <p>(2) PPAs or the Director of Regional Operations may disclose HIV related information only if relevant and necessary to the functions and responsibilities of the following:</p> <p>(a) those responsible for treatment of the ward, including medical and psychiatric personnel;</p> <p>(b) those responsible for care of the ward when the care includes nursing care;</p> <p>(c) those responsible for care of the ward if that responsibility includes twenty-four hour supervision of the ward;</p> <p>(d) a court in accordance with 5 M.R.S.A. §19203-D(2) when that medical information is relevant; and</p> <p>(e) to the attorney representing DHS.</p> <p>Persons authorized to receive written HIV related information will sign a statement, upon receipt of said information, acknowledging that they have been informed of confidentiality requirements, and that they may not further disclose test results, except to the extent authorized by law. Signed statements shall be kept in the ward's case record.</p> <p>(C) Coordination with other DHS Bureaus. The Bureau of Elder and Adult Services will cooperate with other DHS Bureaus, to the extent permitted by law, to coordinate planning on behalf of a public ward who has been diagnosed with HIV infection.</p>

Code of Maine Rules – Title 14: Department of Health and Human Services
(Rules formerly under Department of Behavioral and Developmental Services)

Title 14 CMR	Code Language
14.118.5	<p>DIVISION OF LICENSING AND REGULATORY SERVICES</p> <p>COMMUNITY SERVICES PROGRAMS</p> <p>19.8 Opioid Supervised Withdrawal And Maintenance Treatment Module.</p> <p>19.8.3 Required Services. OTPs shall provide adequate medical, counseling, vocational, educational and other assessment and treatment services that are fully and reasonably available to clients.</p> <p>19.8.3.2 Initial medical examinations are required at the time of admission to the OTP. The examination may be conducted by the OTP physician, a primary care physician, or a physician extender as permitted by rule and law.</p> <p>19.8.3.2.3 Voluntary screening for Human Immunodeficiency Virus (HIV) and other sexually transmitted infections shall be available. When appropriate, referral to other providers of these services shall be made and documented in the client record.</p> <p>19.8.3.5 Education on HIV and Hepatitis shall be provided to all clients. Additional education on other infectious diseases shall be provided by the OTP to clients, as dictated by client need. Education shall be documented in the client record.</p> <p>19.8.6.7 Training. In addition to the training requirements of Section 13.4.1 and 13.4.2 of these rules, staff will receive:</p> <p>19.8.6.7.2 Training on the subject of HIV infection and treatment of HIV infected clients; and</p>
14.191.4	<p>DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES</p> <p>RULES REGARDING DISCLOSURE OF HIV TEST RESULTS TO PERSONS RESPONSIBLE FOR THE TREATMENT OR CARE OF PERSONS TESTED</p> <p>STATE INSTITUTIONS</p> <p>HIV test results may be disclosed, without the informed consent of the person tested, to the director or equivalent of a state institution.</p> <p>The director or equivalent of a state institution operated by the Department of Mental Health and Mental Retardation shall be responsible for further disclosure of test results to direct care or administrative staff,</p>

Title 14 CMR	Code Language
	<p>on a need-to-know basis, for purposes of furthering the treatment of the person tested. Such institutions shall be responsible for establishment of a policy that will inform staff concerning their obligations around confidentiality of HIV test results and concerning the nature of HIV infection and the AIDS disease.</p> <p>RESIDENTIAL PROGRAMS</p> <p>HIV test results may be disclosed by a state institution operated by the Department of Mental Health and Mental Retardation, without the informed consent of the person tested, to the director or equivalent of a residential program where the person is or will be a resident.</p> <p>The director or equivalent of a program licensed or funded by the Department that employs staff shall be responsible for further disclosure of test results to direct care staff of that program, on a need-to-know basis, for purposes of furthering the treatment of the person tested.</p> <p>Residential programs licensed or funded by the Department that employ staff shall be responsible for establishment of a policy that will inform staff concerning their obligations around confidentiality of HIV test results and concerning the nature of HIV infection and the AIDS disease.</p> <p>AIDS EDUCATION</p> <p>The Department shall make available to all state institutions and to all residential programs licensed or funded by the Department, education on HIV infection, the AIDS disease and the law regarding confidentiality of HIV test results. Such Institutions and residential programs shall provide training and education on a regular basis to all administrators, medical and direct care staff who will have access to HIV test result Information.</p> <p>FURTHER DISCLOSURE</p> <p>Parties authorized to receive HIV test results pursuant to this policy shall not further disclose test results without the consent of the person tested, except as outlined above.</p> <p>These rules are promulgated pursuant to 5 MRSA, Section 19203 (7).</p>