

# Maryland

## Introduction and Table of Contents

April 8, 2011

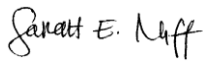
To the Reader:

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

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

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

Thank you,



Sarah E. Neff, MPH  
Director of Research and Evaluation

&



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

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## Definitions and Helpful Resources

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### Definitions Commonly Used Nationally

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

### Helpful Resources

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

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

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

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

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

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

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

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

# Maryland

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

April 8, 2011

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

### Informed Consent

- Informed consent required in a health care facility. Specific written informed consent required in a location other than a health care facility. (See *State Policies Relating to HIV Testing, 2011*, below, for exceptions.)

### Counseling

- Pre-test counseling may be written, oral, or by video
- Post-test counseling is required for HIV positive results.
- Post-test counseling is required for HIV positive test results in cases of health care worker exposure.

### Provisos of Testing

- **Anonymous**
  - Anonymous testing is available at designated anonymous testing sites.
- **Rapid**
  - A confirmatory test must be offered.
- **Routine**
  - No specific provisions regarding routine testing were found.

### Disclosure

- Notification to sexual and needle-sharing partners of possible exposure to HIV is not required.

### Minor/Adolescent Testing

- Minors may consent to venereal disease testing and treatment, HIV not explicitly included.

# Maryland

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

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

April 8, 2011

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

#### **Prenatal**

- Voluntary written informed consent required.
- Testing of women in prenatal care as part of the routine prenatal blood tests by prenatal health care provider is through the opt-out process; objection must be documented in medical record.
- **Initial visit**
  - No specific provisions regarding initial visit prenatal testing were found.
- **Third trimester**
  - Testing must be offered to women in their third trimester if not conducted before.

#### **Labor & Delivery**

- A health care provider must offer a rapid test at birth or delivery if status is unknown or undocumented and antiretroviral prophylaxis prior to receiving the results of the confirmatory test if a rapid test is positive.

#### **Neonatal**

- No specific provisions regarding neonatal testing were found.

#### **Other**

- **Counseling**
  - Pregnant women may receive pre-test counseling that is written, oral, or by video.
- **Linkage to Care**
  - A prenatal health care provider must provide a referral for treatment and supportive services, including case management services.

# Maryland State Policies Relating to HIV Testing, 2011

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### Maryland Code

**Health Occupations**..... Page 5-13  
**Business Occupations and Professions**..... Page 14  
**Criminal Procedure**..... Pages 15-18  
**Health – General**..... Pages 19-42

### Code of Maryland Regulations [COMAR]

**Title 9: Department of Labor, Licensing and Regulation**..... Pages 43-44  
**Title 10: Department of Health and Mental Hygiene**..... Pages 45-66

	Policy Category	Type	Section Code(s)
RESTRICTIONS/MANDATES	Restrictions on use of HIV test	Health care workers may not discriminate services based on HIV+ status	Health Occ § 1A-309, § 2-314, § 3-5A-09, § 3-313, § 4-315, § 5-311, § 7-316, § 8-316, § 8-6A-10, § 8-6B-18, § 9-314, § 10-315, § 11-313, § 12-313, § 12-6B-09, § 13-316, § 14-404, § 14-5A-17, § 14-5B-14, § 14-56-17, § 15-314, § 16-311, § 17-313, § 18-313, § 19-311, § 20-313
		Confirmatory test required	COMAR 10.18.08.08
	Mandatory testing within the criminal justice system	Person convicted of a prohibited exposure of HIV at the request of the victim	Crim Proc §§ 11-111, 11-112
		Persons charged with a prohibited exposure of HIV if charged within 1 year of exposure, at victim’s request, or probable cause of occurrence found by court	Crim Proc §11-110
		Occupational exposure - corrections employees – Department may test source inmate	Hlth Gen §18-338
	Mandatory testing outside of the criminal justice system	Professional boxers, kick-boxers, wrestlers	Bus Reg §4-304.1 COMAR 09.14.04.13

		Blood/organ/anatomical/semen donations and allograft tissue donors	Hlth Gen §18-334 COMAR 10.50.01.11
		Occupational exposure – health care workers	Hlth Gen §18-338.1 Hlth Gen §18-338.3
PRE-TESTING	Mandatory offering of HIV/AIDS information and/or testing	Victims of sexual assault – notified of availability of testing, receive HIV information	COMAR 10.12.02.03
		Training provided in psychiatric rehabilitation programs	COMAR 10.21.21.06
		Education provided to injection drug users of AIDS prevention sterile needle and syringe exchange pilot program	Hlth Gen §24-803
		Education to individual with HIV by physician	COMAR 10.18.04.02
	Informed consent	Documented informed consent required in a health care facility	Hlth Gen §18-336
		Specific written informed consent required for non-health care facility	Hlth Gen §18-336 COMAR 10.18.08.07
		Informed consent does not apply for HIV test under a court order	COMAR 10.18.08.01
	Counseling requirements	Pre-test counseling may be written, oral, or by video	Hlth Gen §18-336 COMAR 10.18.08.06 COMAR 10.18.08.09
		Post-test counseling required for HIV positive results	
		Counseling for inmate and exposed correctional employee if positive test result	Hlth Gen §18-338
		HIV counseling for pregnant women as part of prenatal care program	Hlth Gen §18-338.2 COMAR 10.18.09.03
		Counseling and treatment for positive test results of exposed health care workers or first responders	Hlth Gen §18-338.3
	Anonymous testing	Patient may choose not to give SSN to clinician	COMAR 10.18.02.04
		Department of Health approves designated anonymous HIV test sites	Hlth Gen §18-207
	TESTI	Disclosure/confidentiality	HIV reports confidential
Disclosure of HIV status of sex			Crim Proc §11-114

OTHER		offender to victim	
		If HIV + person refuses to notify sex/needle-sharing partners of status, physician may do so	Hlth Gen §18-337
		Medical director of a tissue bank shall notify a living donor or the physician of a cadaveric donor, in order to notify next of kin, of positive test results	COMAR 10.50.01.10
		Technical director of tissue bank may only release results to the medical director, an authorized person requesting results, or another lab requesting results	COMAR 10.10.06.04 COMAR 10.50.01.11
	Reporting	Blood/organ/semen banks required to report positives	Hlth Gen §18-334
		Name-based reporting	Hlth Gen §18-201 Hlth Gen §18-201.1 Hlth Gen §18-202 Hlth Gen §18-202.1 Hlth Gen §18-207 COMAR 10.18.02.06 COMAR 10.18.02.07
	Testing of pregnant women and/or newborns	Pregnant women must receive counseling before testing (may be written, orally, or by video)	Hlth Gen §18-336 Hlth Gen §18-338.2 COMAR 10.18.09.03
		Testing of women in prenatal care as part of the routine prenatal blood tests by prenatal health care provider - opt-out testing; objection must be documented in medical record	Hlth Gen §18-338.2
		Test to be offered to women in third trimester if not tested earlier in pregnancy	Hlth Gen §18-338.2
		A prenatal health care provider must provide a referral for treatment and supportive services, including case management services	Hlth Gen §18-338.2
	A health care provider at birth or delivery must offer a rapid test if status is unknown or undocumented and antiretroviral prophylaxis prior to receiving the results of the confirmatory test if a rapid test is positive	Hlth Gen §18-338.2	

	Voluntary written informed consent required	COMAR 10.18.09.03
	Birth of infant with HIV+ mother reported; name will be removed if infant tests negative within first 18 months	Hlth Gen §18-201.1
Testing of minors/adolescents	Minors may consent to treatment for venereal disease	Hlth Gen §20-102
Rapid HIV testing	Clinician must have public health testing license	COMAR 10.10.12.04
	Must offer confirmatory test	COMAR 10.10.12.10
	Licensed persons must ensure that personnel meet the requirements and follow the manufacturer's test specifications for the rapid test	COMAR 10.10.12.09
Training and education of health care providers	Education provided by the Secretary and health officer	COMAR 10.18.04.02

### Recommended Resources

#### Maryland General Assembly

<http://mlis.state.md.us/>

#### Code of Maryland Regulations

<http://www.dsd.state.md.us/comar/>

#### Maryland Department of Health and Hygiene

<http://www.dhmh.state.md.us/>



<b>Health Occupations</b>	
<b>MD Health Occupations Code §</b>	<b>Code Language</b>
<b>TITLE 1A. ACUPUNCTURISTS SUBTITLE 3. LICENSING</b>	
§ 1A-309	<p><b>Reprimands, probations, suspensions, and revocations – Grounds</b></p> <p>Subject to the hearing provisions of § 1A-310 of this subtitle, the Board, on the affirmative vote of a majority of its full authorized membership, may deny a license to practice acupuncture to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the licensee:</p> <p>(13) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the person is licensed and qualified to render because the individual is HIV positive;</p>
<b>TITLE 2. AUDIOLOGISTS, HEARING AID DISPENSERS, AND SPEECH-LANGUAGE PATHOLOGISTS</b>	
§ 2-314	<p><b>Denials, reprimands, suspensions, and revocations – Grounds</b></p> <p>Subject to the hearing provisions of § 2-315 of this subtitle, the Board may deny a license or limited license to any applicant, reprimand any licensee or holder of a limited license, place any licensee or holder of a limited license on probation, or suspend or revoke a license or limited license if the applicant, licensee, or holder:</p> <p>(22) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified to render because the individual is HIV positive; or</p>
<b>TITLE 3. CHIROPRACTORS SUBTITLE 5A. CERTIFICATION OF MASSAGE THERAPISTS</b>	
§ 3-5A-11	<p><b>Denials; suspensions; revocations</b></p> <p>(a) Subject to the hearing provisions of § 3-315 of this title, the Board may deny a license or registration to any applicant, reprimand any licensee or registration holder, place any licensee or registration holder on probation, or suspend or revoke the license of a licensee or the registration of a registration holder if the applicant, licensee, or registration holder:</p> <p>(15) Refuses, withholds from, denies, or discriminates against an</p>

<b>MD Health Occupations Code §</b>	<b>Code Language</b>
	individual with regard to the provision of professional services for which the licensee or registration holder is qualified to render because the individual is HIV positive;
<b>SUBTITLE 3. LICENSING</b>	
§ 3-313	<p><b>Denials, reprimands, suspensions, and revocations</b></p> <p>Subject to the hearing provisions of § 3-315 of this subtitle, the Board may deny a license to any applicant, reprimand any licensee, place any licensee on probation, with or without conditions, or suspend or revoke a license, or any combination thereof, if the applicant or licensee:</p> <p>(24) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified to render because the individual is HIV positive;</p>
<b>TITLE 4. DENTISTRY SUBTITLE 3. LICENSING</b>	
§ 4-315	<p><b>Denials, reprimands, probations, suspensions, and revocations – Grounds</b></p> <p>(a) License to practice dentistry. -- Subject to the hearing provisions of § 4-318 of this subtitle, the Board may deny a general license to practice dentistry, a limited license to practice dentistry, or a teacher's license to practice dentistry to any applicant, reprimand any licensed dentist, place any licensed dentist on probation, or suspend or revoke the license of any licensed dentist, if the applicant or licensee:</p> <p>27) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified to render because the individual is HIV positive;</p>
<b>TITLE 5. LICENSED DIETITIAN-NUTRITIONISTS SUBTITLE 3. LICENSING</b>	
§ 5-311	<p><b>Grounds for denial of license</b></p> <p>Subject to the hearing provisions of § 5-312 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a license to any applicant, reprimand any licensee, or suspend or revoke a license if the applicant or licensee:</p> <p>(4) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional service for which the licensee is licensed and qualified to render because the individual is</p>

MD Health Occupations Code §	Code Language
	HIV positive;
<b>TITLE 7. MORTICIANS SUBTITLE 3. LICENSING</b>	
§ 7-316	<p><b>Denials, reprimands, suspensions, and revocations – Grounds</b></p> <p>(a) In general. -- Subject to the hearing provisions of § 7-319 of this subtitle and except as to a funeral establishment license, the Board may deny a license to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke any license if the applicant or licensee:</p> <p>(27) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified to render because the individual is HIV positive;</p>
<b>TITLE 8. NURSES SUBTITLE 3. LICENSING</b>	
§ 8-316	<p><b>Denials, reprimands, suspensions, and revocations -- Grounds; additional monetary penalty; surrender of suspended or revoked license; publication of notice of revocation or suspension</b></p> <p>(a) In general. -- Subject to the hearing provisions of § 8-317 of this subtitle, the Board may deny a license or grant a probationary license to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke the license of a licensee if the applicant or licensee:</p> <p>(14) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified to render because the individual is HIV positive;</p>
<b>SUBTITLE 6A. CERTIFICATION OF NURSING ASSISTANTS AND MEDICATION TECHNICIANS</b>	
§ 8-6A-10	<p><b>Penalties for violations -- Denial, suspension, revocation of certificate; probation; reprimand</b></p> <p>(a) Penalties. -- Subject to the hearing provisions of § 8-317 of this title, the Board may deny a certificate or issue a probationary certificate to any applicant, reprimand any certificate holder, place any certificate holder on probation, or suspend or revoke the certificate of a certificate holder, if the applicant or certificate holder:</p> <p>(22) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which</p>

<b>MD Health Occupations Code §</b>	<b>Code Language</b>
	the applicant or certificate holder is certified and qualified to render because the individual is HIV positive;
<b>SUBTITLE 6B. ELECTROLOGISTS</b>	
§ 8-6B-18	<p><b>Denials, reprimands, suspensions, and revocations</b></p> <p>(a) Grounds. -- Subject to the hearing provisions of § 8-317 of this title and § 8-6B-19 of this subtitle, the Board may deny a license to an applicant, grant a probationary license to an applicant, reprimand a licensee, place a licensee on probation, or suspend or revoke a license if the applicant or licensee:</p> <p>23) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified to render because the individual is HIV positive;</p>
<b>TITLE 9. NURSING HOME ADMINISTRATORS SUBTITLE 3. LICENSING</b>	
§ 9-314	<p><b>Investigations; grounds for reprimands, suspensions, revocations, and fines</b></p> <p>(a) Investigations. -- The Board shall investigate and take appropriate action as to any complaint filed with the Board that alleges that a licensee has failed to meet any standard of the Board.</p> <p>12) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified to render because the individual is HIV positive.</p>
<b>TITLE 10. OCCUPATIONAL THERAPISTS SUBTITLE 3. LICENSING</b>	
§ 10-315	<p><b>Denials, reprimands, suspensions, and revocations – Grounds</b></p> <p>(13) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified to render because the individual is HIV positive.</p>
<b>TITLE 11. OPTOMETRISTS SUBTITLE 3. LICENSING</b>	
§ 11-313	<p><b>Denials, reprimands, probations, suspensions, and revocations – Grounds</b></p>

<b>MD Health Occupations Code §</b>	<b>Code Language</b>
	<p>Subject to the hearing provisions of § 11-315 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a license to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the applicant or licensee:</p> <p>24) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified to render because the individual is HIV positive;</p>
<b>TITLE 12. PHARMACISTS AND PHARMACIES SUBTITLE 3. LICENSING</b>	
§ 12-313	<p><b>Denials, reprimands, suspensions, and revocations – Grounds</b></p> <p>(b) In general. -- Subject to the hearing provisions of § 12-315 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a license to any applicant for a pharmacist's license, reprimand any licensee, place any licensee on probation, or suspend or revoke a license of a pharmacist if the applicant or licensee:</p> <p>(26) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified to render because the individual is HIV positive;</p>
<b>TITLE 12. PHARMACISTS AND PHARMACIES SUBTITLE 6B. REGISTERED PHARMACY TECHNICIANS</b>	
§ 12-6B-09	<p><b>Grounds for reprimand or denial, probation, suspension, or revocation of registration</b></p> <p>Subject to the hearing provision of § 12-315 of this title, the Board may deny a pharmacy technician's registration to any applicant, reprimand a registered pharmacy technician, place any pharmacy technician's registration on probation, or suspend or revoke a pharmacy technician's registration if the applicant or pharmacy technician registrant:</p> <p>(26) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the registered pharmacy technician is registered and qualified to render because the individual is HIV positive</p>
<b>TITLE 13. PHYSICAL THERAPISTS SUBTITLE 3. LICENSING</b>	
§ 13-316	<b>Denials, reprimands, probations, suspensions, and revocations --</b>

<b>MD Health Occupations Code §</b>	<b>Code Language</b>
	<p><b>Grounds</b></p> <p>Subject to the hearing provisions of § 13-317 of this subtitle, the Board may deny a license, temporary license, or restricted license to any applicant, reprimand any licensee or holder of a temporary license or restricted license, place any licensee or holder of a temporary license or restricted license on probation, or suspend or revoke a license, temporary license, or restricted license if the applicant, licensee, or holder:</p> <p>(22) Refuses, withholds from, denies, or discriminates against a patient or client with regard to the provision of professional services for which the licensee is licensed and qualified to render because the patient or client is HIV positive;</p>
<p><b>TITLE 14. PHYSICIANS</b> <b>SUBTITLE 4. DISCIPLINARY ACTIONS</b></p>	
§ 14-404	<p><b>Denials, reprimands, probations, suspensions, and revocations -- Grounds</b></p> <p>(a) In general. -- Subject to the hearing provisions of § 14-405 of this subtitle, the Board, on the affirmative vote of a majority of the quorum, may reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the licensee:</p> <p>(29) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified to render because the individual is HIV positive;</p>
<p><b>TITLE 14. PHYSICIANS</b> <b>SUBTITLE 5A. RESPIRATORY CARE PRACTITIONERS</b></p>	
§ 14-5A-17	<p><b>Denials, reprimands, suspensions, and revocations -- In general</b></p> <p>(a) In general. -- Subject to the hearing provisions of § 14-405 of this title, the Board may deny a license or temporary license to any applicant, reprimand any licensee or holder of a temporary license, place any licensee or holder of a temporary license on probation, or suspend or revoke a license or temporary license if the applicant, licensee, or holder:</p> <p>(25) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified to render because the individual is HIV positive; or</p>
<p><b>TITLE 14. PHYSICIANS</b> <b>SUBTITLE 5B. RADIATION ONCOLOGY/THERAPY, MEDICAL RADIATION, AND</b></p>	

<b>MD Health Occupations Code §</b>	<b>Code Language</b>
<b>NUCLEAR MEDICINE TECHNOLOGISTS</b>	
§ 14-5B-14	<p><b>Denial of certification</b></p> <p>(a) In general. -- Subject to the hearing provisions of § 14-405 of this title, the Board may deny a certificate to any applicant for a certificate, reprimand any certified radiation oncology/therapy technologist, certified medical radiation technologist, or certified nuclear medicine technologist, place any certified radiation oncology/therapy technologist, certified medical radiation technologist, or certified nuclear medicine technologist on probation, or suspend or revoke a certificate if the applicant, certified radiation oncology/therapy technologist, certified medical radiation technologist, or certified nuclear medicine technologist:</p> <p>(25) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the radiation oncology/therapy technologist, certified medical radiation technologist, or certified nuclear medicine technologist is certified and qualified to render because the individual is HIV positive; or</p>
<b>TITLE 14. PHYSICIANS SUBTITLE 5C. POLYSOMNOGRAPHIC TECHNOLOGISTS</b>	
§ 14-5C-17	<p><b>Denials, reprimands, suspensions, and revocations -- In general</b></p> <p>(a) In general. -- Subject to the hearing provisions of § 14-405 of this title, the Board may deny a license to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the applicant or licensee:</p> <p>(26) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified to render because the individual is HIV positive; or</p>
<b>TITLE 15. PHYSICIAN ASSISTANTS SUBTITLE 3. CERTIFICATION</b>	
§ 15-314	<p><b>Grounds for reprimands, suspension or revocation of certificate</b></p> <p>(A) Subject to the hearing provisions of § 15-315 of this subtitle, the Board, on the affirmative vote of a majority of the quorum, may reprimand any physician assistant, place any physician assistant on probation, or suspend or revoke a license if the physician assistant:</p> <p>(29) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the physician assistant is licensed and qualified to render because the individual is HIV positive;</p>

MD Health Occupations Code §	Code Language
<b>TITLE 16. PODIATRISTS SUBTITLE 3. LICENSING</b>	
§ 16-311	<p><b>Denials, reprimands, probations, suspensions, and revocations -- Grounds</b></p> <p>(a) In general. -- Subject to the hearing provisions of § 16-313 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a license or a limited license to any applicant, reprimand any licensee or holder of a limited license, impose an administrative monetary penalty not exceeding \$ 50,000 on any licensee or holder of a limited license, place any licensee or holder of a limited license on probation, or suspend or revoke a license or a limited license if the applicant, licensee, or holder:</p> <p>(24) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified to render because the individual is HIV positive;</p>
<b>TITLE 17. PROFESSIONAL COUNSELORS AND THERAPISTS SUBTITLE 3. CERTIFICATION</b>	
§ 17-313	<p><b>Denial, probation, suspension or revocation of certificate applicant or holder</b></p> <p>Subject to the hearing provisions of § 17-314 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a certificate to any applicant, place any certificate holder on probation, reprimand any certificate holder, or suspend or revoke a certificate of any certificate holder if the applicant or certificate holder:</p> <p>(11) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the certificate holder is certified and qualified to render because the individual is HIV positive;</p>
<b>TITLE 18. PSYCHOLOGISTS SUBTITLE 3. LICENSING</b>	
§ 18-313	<p><b>Denials, reprimands, suspensions, and revocations -- Grounds</b></p> <p>Subject to the hearing provisions of § 18-315 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a license to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke a license of any licensee if the applicant or licensee:</p>



<b>MD Health Occupations Code §</b>	<b>Code Language</b>
	(18) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified to render because the individual is HIV positive;
<b>TITLE 19. SOCIAL WORKERS SUBTITLE 3. LICENSING</b>	
§ 19-311	<p><b>Denials, reprimands, suspensions, and revocations -- Grounds</b></p> <p>Subject to the hearing provisions of § 19-312 of this subtitle, the Board may deny a license to any applicant, fine a licensee, reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the applicant or licensee:</p> <p>(16) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services on the basis of race, age, gender, sexual orientation, disability, religion, or ethnic origin or because the individual is HIV positive;</p>
<b>TITLE 20. RESIDENTIAL CHILD CARE PROGRAM ADMINISTRATORS SUBTITLE 3. CERTIFICATION PROCESS</b>	
§ 20-313	<p><b>Investigations; complaints; sanctions; prohibited acts</b></p> <p>(a) Action on complaints. -- The Board shall investigate and take appropriate action as to any complaint filed with the Board that alleges that a certified program administrator has failed to meet any standard of the Board.</p> <p>(11) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the individual is certified and qualified to render because the individual is HIV positive.</p>

<b>Business Occupations and Professions</b>
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MD Business Occupations and Professions Code §	Code Language
§ 4-304.1	<p><b>Blood tests for boxers and kick boxers</b></p> <p>(a) Applicants for licenses. -- Each applicant for a license to participate as a boxer, kick boxer, or mixed martial arts contestant in a contest shall present documentary evidence, satisfactory to the Commission, that:</p> <ol style="list-style-type: none"> <li>(1) within the prior 30-day period, the applicant has been tested for the presence of antibodies to the human immunodeficiency virus (HIV) and for the presence of the antigen of virus hepatitis B; and</li> <li>(2) the results of both tests are negative.</li> </ol> <p>(b) Participants in contests. -- Whenever directed by the Commission, an individual who is licensed to participate as a boxer, kick boxer, or mixed martial arts contestant in a contest shall present documentary evidence, satisfactory to the Commission, that:</p> <ol style="list-style-type: none"> <li>(1) within 30 days prior to participating in a contest, the individual has been tested for the presence of antibodies to the human immunodeficiency virus (HIV) and for the presence of the antigen of virus hepatitis B; and</li> <li>(2) the results of both tests are negative.</li> </ol> <p>(c) Procedures. -- A test for the presence of HIV conducted under the provisions of this section shall be conducted in accordance with the provisions of Title 4, Subtitle 3 and <a href="#">§ 18-336 of the Health - General Article</a>.</p> <p>(d) (1) Confidentiality of information; penalty for disclosure. -- If the Commission denies a license, suspends, or revokes a license, denies renewal of a license, or does not allow an individual to participate in a contest because of the failure of the individual to comply with this section, the Commission shall keep the information confidential and may not disclose the reason for its action.</p> <p>(2) A person who violates paragraph (1) of this subsection is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$ 1,000 for the first offense and not exceeding \$ 5,000 for each subsequent conviction.</p>

<b>Criminal Procedure</b>
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MD Criminal Procedure Code §	Code Language
§ 11-109	<p><b>Elements of exposure</b></p> <p>(a) "Body fluids" defined. -- In this section, "body fluids" has the meaning stated in <a href="#">§ 18-338.1 of the Health-General Article</a>.</p> <p>(b) Occurrences of exposure. -- Exposure to HIV between a victim and a person charged with a prohibited exposure occurs:</p> <ol style="list-style-type: none"> <li>(1) by percutaneous or mucocutaneous contact with blood or body fluids;</li> <li>(2) by contact for a prolonged period with blood or body fluids of an open wound, including dermatitis, exudative lesions, and chapped skin;</li> <li>(3) by intact skin contact for a prolonged period with large amounts of blood or body fluids; or</li> <li>(4) under any other condition or circumstance under which a person may be exposed to HIV.</li> </ol>
§ 11-110	<p><b>HIV testing of charged person</b></p> <p>In addition to testing allowed under § 11-112 of this subtitle, the court may order a person charged with a prohibited exposure to give a blood sample to be tested for the presence of HIV if:</p> <ol style="list-style-type: none"> <li>(1) the person is charged with a prohibited exposure within 1 year after the prohibited exposure occurred;</li> <li>(2) a victim or victim's representative requests the testing in writing to the State's Attorney in the county where the prohibited exposure occurred; and</li> <li>(3) the court finds probable cause to believe that a prohibited exposure occurred.</li> </ol>
§ 11-111	<p><b>Hearing</b></p> <p>(a) Required before testing. --</p> <ol style="list-style-type: none"> <li>(1) Before ordering a test under § 11-110 of this subtitle, the court shall hold a hearing at which both the victim or victim's representative and the person charged with a prohibited exposure have the right to be present.</li> <li>(2) The victim or victim's representative and the person charged with a prohibited exposure shall be notified of: <ol style="list-style-type: none"> <li>(i) the date, time, and location of the hearing; and</li> <li>(ii) their right to be present at the hearing.</li> </ol> </li> </ol> <p>(b) Admissible evidence. -- During the hearing, a court may admit into evidence only affidavits, counter-affidavits, and medical records that:</p> <ol style="list-style-type: none"> <li>(1) relate to the material facts of the case; and</li> <li>(2) support or rebut a finding of probable cause to issue a court order.</li> </ol>

MD Criminal Procedure Code §	Code Language
	(c) Request to be filed and sealed. -- The written request of the victim or victim's representative shall be filed by the State's Attorney with the court and sealed by the court.
§ 11-112	<p><b>HIV testing after conviction, probation before judgment, or adjudication</b></p> <p>(a) In general. -- On the written request of a victim or victim's representative to the State's Attorney in the county where a prohibited exposure occurred, the court shall order a test of a blood sample for HIV and any other identified causative agent of AIDS.</p> <p>(b) Who must give blood sample. -- The blood sample shall be given by:</p> <ol style="list-style-type: none"> <li>(1) a person who has been convicted of a crime that includes a prohibited exposure;</li> <li>(2) a person who has been granted probation before judgment under § 6-220 of this article in a case involving a prohibited exposure; or</li> <li>(3) a child respondent who has been found to have committed a delinquent act that includes a prohibited exposure.</li> </ol> <p>(c) Request to be filed and sealed. -- The written request shall be filed by the State's Attorney with the court and sealed by the court.</p>
§ 11-113	<p><b>Notification</b></p> <p>(a) To health officer of testing request. --</p> <ol style="list-style-type: none"> <li>(1) After conviction or a finding of a prohibited exposure, a finding of probable cause under § 11-110(3) of this subtitle, or a granting of probation before judgment under § 11-112 of this subtitle, the State's Attorney shall promptly notify the local health officer of the written request by the victim or victim's representative for testing.</li> <li>(2) On receipt of a court order for testing issued under § 11-110(3) or § 11-112 of this subtitle, the local health officer or the local health officer's designee from any other governmental unit shall: <ol style="list-style-type: none"> <li>(i) promptly collect the blood sample from the person who is charged with, convicted of, or found to have committed a prohibited exposure;</li> <li>(ii) test the blood sample; and</li> <li>(iii) give pretest and posttest counseling to the victim or victim's representative and the person subject to testing in accordance with Title 18, Subtitle 3, Part VI of the Health - General Article.</li> </ol> </li> </ol> <p>(b) To victim or victim's representative and tested person. --</p> <ol style="list-style-type: none"> <li>(1) After receiving the results of a test conducted under subsection (a) of this section, the local health officer shall promptly send notice of the test results to: <ol style="list-style-type: none"> <li>(i) the victim or victim's representative; and</li> <li>(ii) the person charged with, convicted of, or found to have committed a prohibited exposure.</li> </ol> </li> <li>(2) The local health officer may not disclose positive test results to a</li> </ol>

<b>MD Criminal Procedure Code §</b>	<b>Code Language</b>
	<p>victim or victim's representative or a person charged with, convicted of, or found to have committed a prohibited exposure without also giving, offering, or arranging for appropriate counseling to:</p> <ul style="list-style-type: none"> <li>(i) the victim or victim's representative; and</li> <li>(ii) the person.</li> </ul> <p>(c) To victim or victim's representative of provisions of Part II. -- The following shall notify a victim of prohibited exposure or the victim's representative of the provisions of Part II of this subtitle:</p> <ul style="list-style-type: none"> <li>(1) a sexual assault crisis program established under § 11-923 of this title when a victim or victim's representative contacts the program;</li> <li>(2) an intake officer who receives a complaint for the alleged prohibited exposure under <a href="#">§ 3-8A-10 of the Courts Article</a>; or</li> <li>(3) on the filing of a charging document or delinquency petition for the alleged prohibited exposure: <ul style="list-style-type: none"> <li>(i) the Department of State Police;</li> <li>(ii) the Police Department of Baltimore City;</li> <li>(iii) the police unit of a county;</li> <li>(iv) the police unit of a municipal corporation;</li> <li>(v) the office of the sheriff of a county;</li> <li>(vi) the office of the State's Attorney of a county;</li> <li>(vii) the office of the Attorney General;</li> <li>(viii) the office of the State Prosecutor;</li> <li>(ix) the Department of Juvenile Services; or</li> <li>(x) the police unit of a bicounty unit or the University of Maryland</li> </ul> </li> </ul>
§ 11-114	<p><b>Disclosure of test results</b></p> <p>(a) Allowed. -- A victim or victim's representative who receives notification under § 11-113(b) of this subtitle may disclose the results of the test to another person to protect the health and safety of, or to seek compensation for, the victim, the victim's sexual partner, or the victim's family.</p> <p>(b) Prohibited act; penalty. --</p> <ul style="list-style-type: none"> <li>(1) Except as otherwise provided in Part II of this subtitle, a person who receives notification or disclosure of the results of the test under subsection (a) of this section may not knowingly disclose the results of that test.</li> <li>(2) A person who violates this subsection is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 90 days or a fine not exceeding \$ 5,000 or both.</li> </ul>
§ 11-115	<p><b>Test results not admissible as evidence</b></p> <p>The results of a test held under Part II of this subtitle are not admissible as evidence of guilt or innocence in a criminal proceeding arising out of the alleged prohibited exposure.</p>

<b>MD Criminal Procedure Code §</b>	<b>Code Language</b>
§ 11-117	<p><b>Regulations</b></p> <p>The Department of Health and Mental Hygiene shall adopt regulations to carry out Part II of this subtitle, including regulations on:</p> <ul style="list-style-type: none"><li>(1) the confidentiality of HIV test results; and</li><li>(2) giving the victim or victim's representative counseling regarding HIV disease, HIV testing, and referral for appropriate health care and support services.</li></ul>

<b>Health – General</b>	
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<b>MD Health- General Code §</b>	<b>Code Language</b>
§ 18-201	<p><b>Contagious disease, physician's duty to report</b></p> <p>(a) A physician with reason to suspect that a patient under the physician's care has a condition or an infectious or contagious disease, except human immunodeficiency virus or acquired immunodeficiency syndrome that endangers public health and that has been designated by the secretary as reportable shall submit immediately a report to the health officer for the county where the physician cares for that patient.</p> <p>(b) The report shall:</p> <ol style="list-style-type: none"> <li>(1) Contain the information and be in a format specified or approved by the Secretary; and</li> <li>(2) Be transmitted as directed by the Secretary</li> </ol> <p>(c)(1) All physician reports required under this section are:</p> <ol style="list-style-type: none"> <li>(i) Confidential;</li> <li>(ii) Not open to public inspection; and</li> <li>(iii) Subject to subpoena or discovery in any criminal or civil proceeding only pursuant to a court order sealing the court record.</li> </ol> <p>(2) The Secretary may prepare and disseminate nonindividually identifiable information about one or more cases of a condition or a disease based on any report received under this section, for any purpose consistent with the Secretary's lawful duties as authorized by an act of the Maryland general Assembly.</p> <p>(3) This subsection does not apply to or restrict the use or publication of any statistics, information, or other material that summarizes or refers to confidential records in the aggregate, without disclosing the identity of any individual who is the subject of the confidential record.</p> <p>(4) This subsection does not apply to a disclosure by the Secretary to another governmental agency performing its lawful duties as authorized by an act of the Maryland General Assembly or the United States Congress where the Secretary determines that:</p> <ol style="list-style-type: none"> <li>(i) The agency to whom the information is disclosed will maintain the confidentiality of the disclosure; and</li> <li>(ii) The disclosure is necessary to protect the public health or to prevent the spread of an infectious or contagious disease.</li> </ol>
§ 18-201.1	<p><b>Establishment of confidentiality</b></p> <p>(a) A physician who has diagnosed a patient under the physician's care with human immunodeficiency virus infection or acquired immunodeficiency syndrome according to the current definition published in the morbidity and mortality weekly report by the Centers for Disease Control and Prevention of the Department of Health and Human Services shall submit immediately a report to the health officer for the county where the physician cares for that patient.</p>

<b>MD Health- General Code §</b>	<b>Code Language</b>
	<p>(b) The report shall:</p> <ol style="list-style-type: none"> <li>(1) Be on the form that the Secretary provides;</li> <li>(2) Identify the disease;</li> <li>(3) State the name, age, race, sex, and residence address of the patient; and</li> <li>(4) Be signed by the physician.</li> </ol> <p>(c)(1) A physician shall submit a report as described in subsection (b) of this section to the Secretary within 48 hours of the birth of an infant whose mother has tested positive for the human immunodeficiency virus.</p> <p>(2) If a newborn infant does not become HIV positive after 18 months from the date that the report required in paragraph (1) of this subsection was submitted, the Secretary shall have the newborn infant's name removed from the HIV registry.</p> <p>(d)(1) All physician reports required under this section are:</p> <ol style="list-style-type: none"> <li>(i) Confidential and subject to Title 4, Subtitle 1 of this article; and</li> <li>(ii) Not medical records under Title 4, Subtitle 3 of this article, but are subject to the confidentiality requirements of Title 4, Subtitle 1 of this article.</li> </ol> <p>(2) The reports and any proceedings, records, or files relating to the reports required under this section are not discoverable and are not admissible in evidence in any civil action.</p> <p>(3) This subsection does not apply to a disclosure by the Secretary to another governmental agency performing its lawful duties pursuant to State or federal law where the Secretary determines the agency to whom the information is disclosed will maintain the confidentiality of the disclosure.</p>
§ 18-202	<p><b>Infectious disease, institution's duty to report</b></p> <p>(a) In this section, "institution" includes:</p> <ol style="list-style-type: none"> <li>(1) A hospital; and</li> <li>(2) A lodging facility.</li> </ol> <p>(b) When the administrative head of an institution has reason to believe that an individual on the premises of the institution has a condition or an infectious or contagious disease, except human immunodeficiency virus or acquired immunodeficiency syndrome, that has been designated by the Secretary as reportable, the administrative head immediately shall submit a report to the health officer for the county where the institution is located.</p> <p>(c) The report shall:</p> <ol style="list-style-type: none"> <li>(1) Contain the information and be in a format specified or approved by the Secretary; and</li> <li>(2) Be transmitted as directed by the Secretary</li> </ol> <p>(d)(1) All institution reports required under this section are:</p>



<b>MD Health- General Code §</b>	<b>Code Language</b>
	<p>(i) Confidential;</p> <p>(ii) Not open to public inspection; and</p> <p>(iii) Subject to subpoena or discovery in any criminal or civil proceeding only pursuant to a court order sealing the court record.</p> <p>(2) This subsection does not apply to or restrict the use or publication of any statistics, information, or other material that summarizes or refers to the confidential records in the aggregate, without disclosing the identity of any individual who is the subject of the confidential record.</p> <p>(3) The Secretary may prepare and disseminate nonindividually identifiable information about one or more cases of a condition or a disease based on any report received under this section, for any purpose consistent with the Secretary's lawful duties as authorized by an act of the Maryland General Assembly.</p> <p>(4) This subsection does not apply to a disclosure by the Secretary to another governmental agency performing its lawful duties as authorized by an act of the Maryland General Assembly or the United States Congress where the Secretary determines that:</p> <p>(i) The agency to whom the information is disclosed will maintain the confidentiality of the disclosure; and</p> <p>(ii) The disclosure is necessary to protect the public health or to prevent the spread of an infectious or contagious disease.</p>
§ 18-202.1	<p><b>HIV/AIDS reporting requirements</b></p> <p>(a) In this section, "institution" includes:</p> <p>(1) A hospital;</p> <p>(2) A nursing home;</p> <p>(3) A hospice facility;</p> <p>(4) A medical clinic in a correctional facility;</p> <p>(5) An inpatient psychiatric facility; and</p> <p>(6) An inpatient drug rehabilitation facility.</p> <p>(b) When an institution has an individual in the care of the institution with a diagnosis of human immunodeficiency virus or acquired immunodeficiency syndrome according to the current definition published in the morbidity and mortality weekly report by the Centers for Disease Control and Prevention, a clinical or infection control practitioner shall submit a report within 48 hours to the health officer for the county where the institution is located.</p> <p>(c) The report shall:</p> <p>(1) Be on the form that the Secretary provides;</p> <p>(2) Identify the disease;</p> <p>(3) State the name, age, race, sex, and residence address of the individual with the disease;</p> <p>(4) State the name of the administrative head of the institution; and</p> <p>(5) State the address of the institution.</p> <p>(d)(1) All institution reports required under this section are:</p>

<b>MD Health- General Code §</b>	<b>Code Language</b>
	<p>(i) Confidential and subject to Title 4, Subtitle 1 of this article; and  (ii) Not medical records under Title 4, Subtitle 3 of this article, but are subject to the confidentiality requirements of Title 4, Subtitle 1 of this article.</p> <p>(2) The reports and any proceedings, records, or files relating to the reports required under this section are not discoverable and are not admissible in evidence in any civil action.</p> <p>(3) This subsection does not apply to a disclosure by the Secretary to another governmental agency performing its lawful duties in accordance with State or federal law where the Secretary determines the agency to whom the information is disclosed will maintain the confidentiality of the disclosure.</p>
§ 18-207	<p><b>HIV identity disclosure</b></p> <p>(a) Definitions. --</p> <p>(1) In this section the following words have the meanings indicated.</p> <p>(2) "HIV/AIDS case report" means an abstract of the medical record of a patient diagnosed with human immunodeficiency virus or acquired immunodeficiency syndrome which contains:</p> <p>(i) Reasonably obtained patient demographic information, including name and risk factors;</p> <p>(ii) Relevant information on the:</p> <ol style="list-style-type: none"> <li>1. Initial diagnosis;</li> <li>2. Treatment and referral; and</li> <li>3. Clinical condition; and</li> </ol> <p>(iii) Facility and other provider identification information</p> <p>(3) "Report" means:</p> <p>(i) A laboratory examination report for HIV or <u>CD 4+</u> count as required by § 18-205 of this subtitle;</p> <p>(ii) A report for HIV or AIDS as required by § 18-201.1, § 18-202, or § 18-202.1 of this subtitle; or</p> <p>(iii) An HIV/AIDS case report.</p> <p>(4) "Designated anonymous HIV test site" means an HIV counseling and testing site approved by the Department of Health and Mental Hygiene as a site where a patient may have an anonymous HIV test.</p> <p>(b) Case report. --</p> <p>(1) Except for a designated anonymous HIV test site, a facility or office that orders a test for HIV and receives a test result that documents the presence of HIV as defined by the CDC laboratory criteria shall, upon the Secretary's request, make available to the Secretary, or an agent of the Secretary, the information necessary to compile an HIV/AIDS case report.</p> <p>(2) A report or information assembled or obtained under this section:</p> <p>(i) Is confidential and subject to Title 4, Subtitle 1 of this article.</p> <p>(ii) Is not a medical record under Title 4, Subtitle 3 of this article, but is subject to the confidentiality requirements of Title 4, Subtitle 1 of this article.</p> <p>(iii) This subsection does not apply to a disclosure by the Secretary</p>

<b>MD Health- General Code §</b>	<b>Code Language</b>
	<p>to another governmental agency performing its lawful duties pursuant to State or federal law where the Secretary determines that the agency to whom the information is disclosed will maintain the confidentiality of the disclosure.</p> <p>(3) The report and any proceedings, records, or files relating to the reports required under this section are not discoverable and are not admissible in evidence in any civil action.</p>
§ 18-213.1	<p><b>Notification of members of the State Fire Marshal's office of exposure to contagious disease or virus; educational programs; equipment.</b></p> <p>(a) Definitions.-</p> <p>(3) "Contagious disease or virus" means:</p> <p>(i) Human immunodeficiency virus (HIV);</p> <p>(b) Member of State Fire Marshal's office.- If, while treating or transporting an ill or injured patient to a medical care facility or while acting in the performance of duty, a sworn member of the State Fire Marshal's office comes into contact exposure with a patient who is subsequently diagnosed, as a result of information obtained in conjunction with the services provided during the visit to the facility, as having a contagious disease or virus, the attending physician, medical examiner, a designee of the medical care facility who receives the patient, the Chief Medical Examiner, or the Chief Medical Examiner's designee shall notify the sworn member of the State Fire Marshal's office and the State Fire Marshal or the State Fire Marshal's designee of the officer's possible contact exposure to the contagious disease or virus.</p> <p>(c) When notice made; written confirmation; confidentiality.- The notification required under subsection (b) of this section shall:</p> <p>(1) Be made within 48 hours of confirmation of the patient's diagnosis;</p> <p>(2) Include subsequent written confirmation of possible contact exposure to the contagious disease or virus;</p> <p>(3) Be conducted in a manner that will protect the confidentiality of the patient; and</p> <p>(4) To the extent possible, be conducted in a manner that will protect the confidentiality of the sworn member of the State Fire Marshal's office.</p> <p>(d) Compliance with this section.- The written confirmation required under subsection (c) (2) of this section shall constitute compliance with this section.</p>

<b>MD Health- General Code §</b>	<b>Code Language</b>
	<p>(e) Written procedures for implementation of section.- Each medical care facility shall develop written procedures for the implementation of this section, and upon request, make copies available to the State Fire Marshal's office.</p> <p>(f) Liability of medical care facility or physician - Breach of patient confidentiality.- A medical care facility, physician, Chief Medical Examiner, or the Chief Medical Examiner's designee acting in good faith to provide notification in accordance with this section may not be liable in any cause of action related to the breach of patient confidentiality.</p> <p>(g) Same - Failure to provide notice.- A medical care facility, physician, Chief Medical Examiner, or the Chief Medical Examiner's designee acting in good faith to provide notification in accordance with this section may not be liable in any cause of action for:</p> <p>(1) The failure to give the required notice, if the sworn member of the State Fire Marshal's office fails to properly initiate the notification procedures developed by the health care facility under subsection (e) of this section; or</p> <p>(2) The failure of the State Fire Marshal or the State Fire Marshal's designee to subsequently notify the sworn member of the State Fire Marshal's office of the possible contact exposure to a contagious disease or virus.</p> <p>(h) Educational programs.- A sworn member of the State Fire Marshal's office shall receive from the State Fire Marshal's office, at the expense of the State Fire Marshal's office, as part of the member's training, education on:</p> <p>(1) (i) The routes of transmission of HIV and hepatitis B virus; and</p> <p>(ii) The routes by which a sworn member of the State Fire Marshal's office may be exposed to HIV and hepatitis B virus; and</p> <p>(2) The current Centers for Disease Control and Prevention guidelines for preventing prehospital exposure to HIV and hepatitis B while rendering emergency medical care.</p> <p>(i) Equipment.- A sworn member of the State Fire Marshal's office shall receive from the State Fire Marshal's office, at the State Fire Marshal's expense, equipment recommended by the Centers for Disease Control and Prevention to protect a sworn member of the State Fire Marshal's office from exposure to HIV and hepatitis B while rendering emergency medical care.</p> <p>(j) Procedures.-</p>

<b>MD Health- General Code §</b>	<b>Code Language</b>
	<p>(1) The State Fire Marshal's office shall develop written procedures for the implementation of this section.</p> <p>(2) On request, copies of the procedures developed under this subsection shall be made available to employees, employee unions, volunteer associations, and the Secretary.</p> <p>(k) Effect of section.- A person under this section may not refuse to treat or transport an individual because the individual is HIV positive.</p>
§ 18-213.2.	<p><b>Notification of contact exposure to contagious disease or virus; postmortem examination.</b></p> <p>(a) Definitions.-</p> <p>(3) "Contagious disease or virus" means:</p> <p>(i) Human immunodeficiency virus (HIV);</p> <p>(b) Notification to first responder by physician.- If, while transporting a person to a medical care facility or while acting in the performance of duty, a first responder comes into contact exposure while treating or transporting a person who dies at the scene or while being transported and who is subsequently determined, as a result of information obtained in conjunction with a postmortem examination by the Chief Medical Examiner or a designee of the Chief Medical Examiner to have had a contagious disease or virus at the time of death, the physician performing the postmortem examination shall notify the first responder and the first responder's employer or the employer's designee of the first responder's possible contact exposure to the contagious disease or virus.</p> <p>(c) Time, content, and confidentiality of notification.- The notification required under subsection (b) of this section shall:</p> <p>(1) Be made within 48 hours of confirmation of the determination that the deceased person had a contagious disease or virus at the time of death;</p> <p>(2) Include subsequent written confirmation of possible contact exposure to the contagious disease or virus;</p> <p>(3) Be conducted in a manner that will protect the confidentiality of the deceased person; and</p> <p>(4) To the extent possible, be conducted in a manner that will protect the confidentiality of the first responder.</p> <p>(d) Written confirmation is compliance.- The written confirmation required under subsection (c)(2) of this section shall constitute</p>

<b>MD Health- General Code §</b>	<b>Code Language</b>
	<p>compliance with this section.</p> <p>(e) Liability for patient confidentiality.- A medical care facility or physician performing a postmortem examination acting in good faith to provide notification in accordance with this section is not liable in any cause of action related to a breach of patient confidentiality.</p> <p>(f) Liability for failure to notify.- A medical care facility or physician performing a postmortem examination acting in good faith to provide notification in accordance with this section is not liable in any cause of action for:</p> <p>(1) The failure to give the required notice if the first responder fails to properly initiate the notification procedures developed by the medical care facility and the Chief Medical Examiner under subsection (g) of this section; or</p> <p>(2) The failure of the employer or the employer's designee to subsequently notify the first responder of the possible contact exposure to a contagious disease or virus.</p> <p>(g) Development and publication of procedures.-</p> <p>(1) The State Fire Marshal, the Chief Medical Examiner, and each fire department, rescue squad company, medical care facility, correctional institution, and law enforcement agency in the State shall develop written procedures for the implementation of this section.</p> <p>(2) On request, the State Fire Marshal and each fire department, rescue squad company, medical care facility, correctional institution, and law enforcement agency shall make copies of the procedures developed in this subtitle available to employees, employee unions, volunteer associations, and the Secretary.</p> <p>(h) Refusal to treat or transport HIV positive decedent prohibited.- A person covered under subsection (a)(5), (6), (7), (8), (9), and (10) of this section may not refuse to treat or transport a deceased person because the deceased person was HIV positive at the time of death.</p>
§ 18-334	<p><b>Donors of semen, blood, or tissue</b></p> <p>(a) Definitions. --</p> <p>(1) In this section the following words have the meanings indicated.</p> <p>(2) "HIV" means the human immunodeficiency virus that causes acquired immune deficiency syndrome.</p> <p>(3) "Institution" means:</p> <p>(i) An ambulatory surgical facility or center, as defined in § 19-114 of this article;</p> <p>(ii) A health maintenance organization, as defined in § 19-701 of this article;</p> <p>(iii) A hospital or related institution, as defined in § 19-301 of this</p>

<b>MD Health- General Code §</b>	<b>Code Language</b>
	<p>article;</p> <p>(iv) A tissue bank; or</p> <p>(v) The office of 1 or more physicians.</p> <p>(4) "Laboratory" means a public laboratory, medical laboratory, or medical test unit as those terms are defined in Title 17 of this article.</p> <p>(5) "Physician" means a person licensed to practice under Title 14 of the Health Occupations Article.</p> <p>(6) (i) "Tissue bank" means an establishment that obtains, stores, processes, distributes, or sells human blood or other human tissue for use in the human body.</p> <p>(ii) "Tissue bank" includes a blood bank or sperm bank.</p> <p>(b) Testing of blood samples. --</p> <p>(1) Subject to the provisions of paragraph (2) of this subsection, an institution that obtains or processes semen, blood, or tissue shall obtain and send a blood sample from each potential donor of semen, blood, or tissue to a laboratory approved by the Department to test for HIV antibodies.</p> <p>(2) Before obtaining a blood sample from a potential semen, blood, or tissue donor the institution shall:</p> <p>(i) Inform the potential donor, in layman's terms, that a blood sample of the donor will be tested for HIV antibodies and if the donor's blood sample tests positive for HIV antibodies the result will be reported to the Department; and</p> <p>(ii) Obtain written consent from the potential donor on a form provided by the Department for the administration of the HIV antibody tests and for the disclosure of a positive test result to the Department.</p> <p>(c) Positive HIV antibody test result -- Notice; reports. -- An institution that obtains a positive HIV antibody test result under subsection (b) of this section shall:</p> <p>(1) Notify the potential donor from whom the blood sample was obtained of the positive result;</p> <p>(2) Inform the individual of available counseling; and</p> <p>(3) Report the result to the Department on the form the Department provides.</p> <p>(d) Same -- Confidentiality. -- A test result reported by an institution under subsection (c) of this section may not contain any information that identifies the subject of the test.</p> <p>(e) Same -- Use of specimens prohibited. -- An institution may not use a semen, blood, or tissue specimen from a donor with a positive HIV antibody test result obtained under the provisions of this section.</p>
§ 18-336	<p><b>Testing</b></p> <p>(a) Definitions. --</p> <p>(1) In this section the following words have the meanings indicated.</p> <p>(2) "HIV" means the human immunodeficiency virus that causes</p>

<b>MD Health- General Code §</b>	<b>Code Language</b>
	<p>acquired immune deficiency syndrome.</p> <p>(3) "Health care facility" has the same meaning stated in § 18-338.2 of this subtitle.</p> <p>(4) "Health care provider" means a physician, nurse, or designee of a health care facility.</p> <p>(b) Consent required for testing; counseling. -- Except as provided in Title 11, Subtitle 1, Part II of the Criminal Procedure Article or § 18-338.3 of this subtitle, before obtaining a fluid or tissue sample from the body of an individual for the purpose of testing the fluid or tissue for the presence of HIV infection, a health care provider shall:</p> <p>(1) Obtain informed consent from the individual after:</p> <p>(i) Informing the individual that an HIV test will be administered; and</p> <p>(ii) Advising the individual of the right to refuse the HIV test without penalty;</p> <p>(2) Document in the medical record the provision of informed consent; and</p> <p>(3) Provide the individual with pretest counseling as provided in regulations adopted by the department.</p> <p>(c) Pretest counseling may be provided in writing, verbally, by video, or a combination of these strategies as appropriate based on the individual's informational needs and testing history.</p> <p>(d) (1) If the HIV test is ordered at a location that is not a health care facility, informed consent shall be in writing and signed by the individual on an informed consent for HIV testing document that is approved by the department.</p> <p>(2) The informed consent for HIV testing document shall be distinct and separate from all other consent forms.</p> <p>(3) A patient identifying number obtained from an anonymous and confidential test site which is approved by the Department may be evidence of a patient's informed consent in lieu of a patient's signature.</p> <p>(e) Refusal to consent to the HIV antibody test or a positive test result may not be used as the sole basis by an institution or laboratory to deny services or treatment.</p> <p>(f) If the individual is unable to give informed consent, substitute consent may be given under § 5-605 of this article.</p> <p>(g) A physician or physician's designee who obtains a result from an HIV antibody test conducted in accordance with the provisions of subsection (b) of this section shall:</p> <p>(1) Notify the individual from whom the fluid or tissue sample was obtained of the result; and</p> <p>(2) If the test is positive:</p> <p>(i) Provide the individual with a copy of the Department's</p>



<b>MD Health- General Code §</b>	<b>Code Language</b>
	<p>publication describing available counseling services;</p> <p>(ii) Counsel the individual to inform all sexual and needle-sharing partners of the individual's positive HIV status;</p> <p>(iii) Offer to assist in notifying the individual's sexual and needle-sharing partners or refer the individual to the local health officer to assist the individual with notifying the individual's sexual and needle-sharing partners; and</p> <p>(iv) If necessary, take action appropriate to comply with § 18-337 of this subtitle.</p> <p>(h) Local health officers shall make available to health care providers in their jurisdiction information on referral resources for an individual with an HIV positive status, including counseling, testing, needs assessment, treatment, and support services.</p>
§ 18-337	<p><b>Positive test results.</b></p> <p>(a) Definition.- In this section, "health care provider" means a physician, a physician's designee, or a designee of a health care facility licensed or otherwise authorized to provide health care services.</p> <p>(b) Notice to others by health care providers.- If an individual informed of the individual's HIV positive status under § 18-336 of this subtitle refuses to notify the individual's sexual and needle-sharing partners, the individual's physician may inform the local health officer and/or the individual's sexual and needle-sharing partners of:</p> <p>(1) The individual's identity; and</p> <p>(c) Enforcement of §§ 18-208 through 18-213.1 of this title.- When the local health officer is notified, the health officer shall enforce the provisions of §§ 18-208 through 18-213.1 of this title:</p> <p>(1) Within a reasonable time; and</p> <p>(2) To the extent feasible.</p> <p>(d) Referrals to appropriate services.- Each local health officer shall refer the infected individual and any known sexual or needle-sharing partners of the individual to appropriate services for the care, support, and treatment for HIV infected individuals.</p> <p>(e) Liability of physician - Disclosure.- A physician acting in good faith to provide notification in accordance with this section may not be held liable in any cause of action related to a breach of patient confidentiality.</p> <p>(f) Same - Nondisclosure.- A physician acting in good faith may not be held liable in any cause of action for choosing not to disclose information related to a positive test result for the presence of human immunodeficiency virus to an individual's sexual and needle-sharing partners.</p>

<b>MD Health- General Code §</b>	<b>Code Language</b>
	<p>(g) Liability of hospitals or other health care providers.- A hospital or any other health care provider acting in good faith pursuant to a physician's order to perform or interpret a test for the presence of HIV may not be held liable in any cause of action related to:</p> <p>(1) A breach of patient confidentiality; or</p> <p>(2) A physician's decision to disclose or not to disclose information related to a positive test result to a local health officer and/or an individual's sexual and needle-sharing partners.</p>
§ 18-338	<p><b>Inmates of correctional institutions</b></p> <p>(a) Definitions. --</p> <p>(1) In this section the following words have the meanings indicated.</p> <p>(2) "Correctional institution" means a place of detention or correctional confinement operated by or for the State or a local government.</p> <p>(3) "Correctional employee" means:</p> <p>(i) A person who is employed by a correctional institution; or</p> <p>(ii) A person who performs duties in a correctional institution by virtue of federal, State, or local government employment.</p> <p>(4) "Exposure" means, as between a correctional employee and an inmate:</p> <p>(i) Percutaneous contact with blood, semen, or blood contaminated fluids;</p> <p>(ii) Mucocutaneous contact with blood, semen, or blood contaminated fluids;</p> <p>(iii) Open wound, including dermatitis, exudative lesions, or chapped skin, contact with blood, semen, or blood contaminated fluids; and</p> <p>(iv) Intact skin contact with large amounts of blood, semen, or blood contaminated fluids for a prolonged period.</p> <p>(5) "Health care provider" means</p> <p>(i) Any person, including a physician or hospital, who is licensed or otherwise authorized in this State to provide health care services and is under contract with or operated by the correctional facility.</p> <p>(ii) An employee's private physician</p> <p>(b) Sample to be furnished. -- An inmate shall furnish to the correctional institution a blood sample or buccal (cheek) swab to be tested for the presence of human immunodeficiency virus (HIV) when:</p> <p>(1) There has been an exposure involving the inmate;</p> <p>(2) The exposure occurred in connection with the inmate's violation of institutional regulations;</p> <p>(3) The inmate has been found guilty of the violation of institutional regulations described in paragraph (2) of this subsection;</p> <p>(4) The correctional employee involved in the exposure has given written notice of the exposure to the managing official of the correctional institution, or the official's designee; and</p>

<b>MD Health- General Code §</b>	<b>Code Language</b>
	<p>(5) The exposure is confirmed by a health care provider.</p> <p>(c) Testing. -- The correctional institution shall collect the blood sample from the inmate, and shall have the sample tested for human immunodeficiency virus (HIV) by a test and test procedure approved by the Department.</p> <p>(d) Notice of results -- In general. -- The correctional employee shall be notified of the results of the test for the presence of human immunodeficiency virus (HIV) conducted under the provisions of this section.</p> <p>(e) Same -- Requirements. -- The notification required under subsection (d) of this section shall:</p> <ol style="list-style-type: none"> <li>(1) Be made within 48 hours of confirmation of the inmate's diagnosis;</li> <li>(2) Include subsequent written confirmation of the possible exposure to human immunodeficiency virus (HIV); and</li> <li>(3) To the extent possible, be made in a manner that will protect the confidentiality of the correctional employee and the inmate.</li> </ol> <p>(f) Counseling. -- If the results of the blood sample test are positive for the presence of human immunodeficiency virus (HIV), then the correctional employee and the inmate shall be provided appropriate counseling.</p> <p>(g) Procedures. -- All correctional institutions shall develop written procedures to carry out the provisions of this section.</p> <p>(h) Liability of health care provider -- Disclosures. -- A health care provider acting in good faith to provide notification in accordance with this section may not be held liable in any cause of action related to a breach of patient confidentiality.</p> <p>(i) Same -- Nondisclosure. -- A health care provider acting in good faith to provide notification in accordance with this section may not be held liable in any cause of action for:</p> <ol style="list-style-type: none"> <li>(1) The failure to give the required notice, if the correctional employee fails to properly initiate the notification procedures developed by the correctional institution under subsection (g) of this section; or</li> <li>(2) The failure of the managing official of the correctional institution within which the correctional employee is employed to subsequently notify the correctional employee of the possible exposure to human immunodeficiency virus (HIV).</li> </ol> <p>(j) Same -- Samples or testing. -- A health care provider may not be held liable in any cause of action related to obtaining a blood sample or performing and interpreting an approved HIV test without the inmate's informed consent.</p>
§ 18-338.1	<b>Health care providers</b>

<b>MD Health- General Code §</b>	<b>Code Language</b>
	<p>(a) Definitions. --</p> <p>(1) In this section the following words have the meanings indicated.</p> <p>(2) (i) "Body fluids" means:</p> <ol style="list-style-type: none"> <li>1. Any fluid containing visible blood, semen, or vaginal secretions;</li> </ol> <p>or</p> <ol style="list-style-type: none"> <li>2. Cerebrospinal fluid, synovial, or amniotic fluid.</li> </ol> <p>(ii) "Body fluid" does not include saliva, stool, nasal secretions, sputum, tears, urine, or vomitus.</p> <p>(3) "Exposure" means as between a patient and a health care provider:</p> <ol style="list-style-type: none"> <li>(i) Percutaneous contact with blood or body fluids;</li> <li>(ii) Mucocutaneous contact with blood or body fluids;</li> <li>(iii) Open wound, including dermatitis, exudative lesions, or chapped skin, contact with blood or body fluids for a prolonged period;</li> </ol> <p>or</p> <ol style="list-style-type: none"> <li>(iv) Intact skin contact with large amounts of blood or body fluids for a prolonged period.</li> </ol> <p>(4) "Health care facility" means a facility or office where health or medical care is provided to patients by a health care provider, including:</p> <ol style="list-style-type: none"> <li>(i) A health care facility as defined in § 19-114 (d) (1) of this article;</li> <li>(ii) A facility operated by the Department or a health officer;</li> <li>(iii) The office of a health care provider; or</li> <li>(iv) A medical laboratory.</li> </ol> <p>(5) (i) "Health care provider" means a person who is licensed, certified, or otherwise authorized under the Health Occupations Article to provide health or medical care in:</p> <ol style="list-style-type: none"> <li>1. The ordinary course of business or practice of a profession; or</li> <li>2. In an approved education or training program.</li> </ol> <p>(ii) "Health care provider" includes any agent or employee of a health care facility.</p> <p>(iii) "Health care provider" does not include any individual who is eligible to receive notification under the provisions of § 18-213 of this title, including any law enforcement officer or any member of any fire department, ambulance company, or rescue squad.</p> <p>(6) "HIV" means the human immunodeficiency virus that causes acquired immune deficiency syndrome.</p> <p>(b) Informed consent -- Requirements. -- Except as provided in § 18-338.3 of this subtitle, a physician, nurse, or designee of a health care facility shall, at the request of an exposed health care provider, seek the informed consent of a patient to test a blood sample of the patient for the presence of HIV when:</p> <ol style="list-style-type: none"> <li>(1) There has been an exposure between the patient and the health care provider;</li> <li>(2) The health care provider involved in the exposure has given prompt written notice of the exposure, in accordance with the standards of the health care facility, to the chief executive officer or the chief</li> </ol>

<b>MD Health- General Code §</b>	<b>Code Language</b>
	<p>executive officer's designee of the health care facility where the exposure occurred;</p> <p>(3) The exposure occurred based on the judgment of a physician who is not the health care provider involved in the exposure; and</p> <p>(4) The health care provider involved in the exposure has given informed consent and has submitted a blood sample to be tested for the presence of HIV in accordance with the provisions of subsection (d) of this section.</p> <p>(c) Substitute consent. -- If, by virtue of the physical or mental condition of a patient, a physician, nurse, or designee of a health care facility is unable to obtain the informed consent of the patient to test a blood sample of the patient for the presence of HIV in accordance with subsection (b) of this section, the physician, nurse, or designee of the health care facility shall seek the consent of any person who has authority to consent to medical care for the patient as provided under § 5-605 of this article or as otherwise authorized by law.</p> <p>(d) Testing. -- If the patient's informed consent has been obtained in accordance with subsection (b) of this section or substitute consent has been obtained in accordance with subsection (c) of this section and the other requirements of subsection (b) of this section have been satisfied, a physician or the physician's designee shall:</p> <p>(1) Collect the blood sample from the patient and health care provider involved in the exposure; and</p> <p>(2) Have the blood samples tested for the presence of HIV using a test procedure approved by the Department.</p> <p>(e) Notice of results -- In general. -- When a physician obtains the results of a test for the presence of HIV that was conducted in accordance with the provisions of subsection (d) of this section, the physician or a designee of the health care facility shall directly notify the health care provider and the patient of the results of the patient's HIV test.</p> <p>(f) Same -- Requirements. -- The notification required under subsection (e) of this section shall:</p> <p>(1) Be made within 48 hours of confirmation of the results of the patient's HIV test;</p> <p>(2) Include subsequent written confirmation of the possible exposure to HIV; and</p> <p>(3) To the extent possible, be made in a manner that will protect the confidentiality of the health care provider and the patient.</p> <p>(g) Positive test results -- Counseling. -- If the results of a test for the presence of HIV that was conducted in accordance with the provisions of subsection (d) of this section are positive, a physician or the physician's designee shall provide or arrange for the provision of appropriate counseling to the health care provider and the patient.</p>

<b>MD Health- General Code §</b>	<b>Code Language</b>
	<p>(h) Confidentiality. --</p> <p>(1) Notwithstanding the provisions of Title 4, Subtitle 3 of this article, the records, including any physician order for an HIV test or the results of an HIV test performed on a blood sample of a patient or a health care provider in accordance with the provisions of this section may not be documented in the medical record of the patient or health care provider.</p> <p>(2) The health care facility shall maintain a separate confidential record or incident report for all HIV tests performed on a blood sample of a patient or health care provider in accordance with the provisions of this section.</p> <p>(3) The health care facility shall adopt procedures for the confidential testing of blood samples obtained in accordance with the provisions of this section.</p> <p>(4) Except as provided in paragraph (5) of this subsection, the records, including any physician order for an HIV test or the results, of any HIV test performed on a blood sample of a patient or health care provider in accordance with the provisions of this section are:</p> <p>(i) Confidential; and</p> <p>(ii) Not discoverable or admissible in evidence in any criminal, civil, or administrative action.</p> <p>(5) If the identity of the patient or any other information that could be readily associated with the identity of the patient is not disclosed, the results of an HIV test performed on a patient or health care provider in accordance with the provisions of this section may be introduced into evidence in any criminal, civil, or administrative action including the adjudication of a workers' compensation claim.</p> <p>(i) Costs. -- The costs incurred in performing an HIV test on a patient or health care provider in accordance with the provisions of this section shall be paid by the health care facility.</p> <p>(j) Procedures. -- All health care facilities shall develop written procedures to implement the provisions of this section.</p> <p>(k) Liability of health care provider -- Disclosures. -- A health care provider or health care facility acting in good faith to provide notification or maintain the confidentiality of the results of a test for the presence of HIV in accordance with the provisions of this section may not be held liable in any cause of action related to a breach of patient or health care provider confidentiality.</p> <p>(l) Practice protocol. -- The Medical and Chirurgical Faculty of the State of Maryland in consultation with the Centers for Disease Control and Prevention, the Maryland Hospital Association, and the Department of Health and Mental Hygiene shall develop a practice protocol for physicians who are infected with HIV.</p>
§ 18-338.2	<b>Pregnant women</b>

<b>MD Health- General Code §</b>	<b>Code Language</b>
	<p>(a) Definitions. --</p> <p>(1) In this section the following words have the meanings indicated.</p> <p>(2) "Health care facility" means a facility or office where health or medical care is provided to patients by a health care provider, including:</p> <ul style="list-style-type: none"> <li>(i) A hospital as defined in § 19-301 of this article;</li> <li>(ii) A facility operated by the Department or a health officer; and</li> <li>(iii) The office of a health care provider.</li> </ul> <p>(3) "Health care provider" means a physician, nurse, or designee of a health care facility.</p> <p>(4) "HIV" means the human immunodeficiency virus that causes acquired immune deficiency syndrome (AIDS).</p> <p>(5) "Prenatal care" means obstetric and gynecologic service performed as part of a prenatal care program, including:</p> <ul style="list-style-type: none"> <li>(i) Screening;</li> <li>(ii) Physical examination;</li> <li>(iii) Laboratory and diagnostic testing procedures and interpretation; and</li> <li>(iv) Counseling.</li> </ul> <p>(b) A health care provider who provides prenatal medical care shall:</p> <ul style="list-style-type: none"> <li>(1) Notify each pregnant woman that she will be tested for HIV infection as part of the routine prenatal blood tests;</li> <li>(2) Advise the pregnant patient that she has the right to refuse the test for HIV infection without penalty;</li> <li>(3) Obtain informed consent from the pregnant patient to test her for HIV infection;</li> <li>(4) Test the patient, unless the patient declines the test;</li> <li>(5) Document in the medical record if the patient declines the test;</li> <li>(6) Offer an HIV test in the third trimester to a pregnant woman who has not tested earlier in her pregnancy;</li> <li>(7) Consider routinely offering a repeat HIV test in the third trimester to all pregnant women: <ul style="list-style-type: none"> <li>(i) At health care facilities in areas of high rates of HIV prevalence; and</li> <li>(ii) Who are at risk of acquiring HIV; and</li> </ul> </li> <li>(8) Provide a referral for treatment and supportive services, including case management services.</li> </ul> <p>(c) A health care provider who provides labor and delivery services to pregnant women shall offer:</p> <ul style="list-style-type: none"> <li>(1) A rapid HIV test to pregnant women with unknown or undocumented HIV status during labor and delivery; and</li> <li>(2) Antiretroviral prophylaxis prior to receiving the results of the confirmatory test if a rapid HIV test during labor and delivery is positive.</li> </ul> <p>(d) (1) As part of a health care provider's patient acceptance procedures or protocol, a health care provider shall provide a pregnant woman with counseling concerning being tested for the presence of HIV as part of the woman's prenatal care program.</p> <p>(2) The counseling shall include:</p> <ul style="list-style-type: none"> <li>(i) Information required for pretest counseling under § 18-336 of</li> </ul>



<b>MD Health- General Code §</b>	<b>Code Language</b>
	<p>this article; and</p> <p>(ii) Education on:</p> <ol style="list-style-type: none"> <li>1. The effect of a positive HIV test result on the pregnant woman and the fetus concerning the risk of transmission of HIV to the fetus; and</li> <li>2. Recognized methods of reducing that risk, including the use of pharmaceuticals during pregnancy known to reduce the risk of transmission of HIV to the fetus.</li> </ol> <p>(e) (1) Except as otherwise provided in paragraph (2) of this subsection, the record of an HIV test performed under this section is confidential and not discoverable or admissible in evidence in any criminal, civil, or administrative action.</p> <p>(2) Provided that the identity or any other information that could readily be associated with the identity of the pregnant woman is not disclosed, the results of an HIV test performed under this section may be introduced into evidence in any criminal, civil, or administrative action, including the adjudication of a workers' compensation claim.</p> <p>(f) A health care provider, including a health care facility, acting in good faith to provide the counseling required under subsection (b) of this section may not be held liable in any cause of action related to a woman's decision to consent or not to consent to have an HIV test.</p>
§ 18-338.3	<p><b>HIV Testing -- Health care workers or first responders</b></p> <p>(a) Definitions. --</p> <ol style="list-style-type: none"> <li>(1) In this section the following words have the meanings indicated.</li> <li>(2) (i) "Body fluids" means: <ol style="list-style-type: none"> <li>1. Any fluid containing visible blood, semen, or vaginal secretions; or</li> <li>2. Cerebrospinal fluid, synovial fluid, or amniotic fluid.</li> </ol> </li> <li>(ii) "Body fluids" does not include saliva, stool, nasal secretions, sputum, tears, urine, or vomitus.</li> <li>(3) "Exposure" means as between a patient and a health care provider: <ol style="list-style-type: none"> <li>(i) Percutaneous contact with blood or body fluids;</li> <li>(ii) Mucocutaneous contact with blood or body fluids;</li> <li>(iii) Open wound, including dermatitis, exudative lesions, or chapped skin, contact with blood or body fluids for a prolonged period; or</li> <li>(iv) Intact skin contact with large amounts of blood or body fluids for a prolonged period.</li> </ol> </li> <li>(4) "First responder" means an individual who: <ol style="list-style-type: none"> <li>(i) Is licensed or certified under <a href="#">§ 13-516 of the Education Article</a>; and</li> <li>(ii) Provides services to an individual before the individual is admitted to a hospital.</li> </ol> </li> <li>(5) (i) "Health care provider" means an individual who is licensed, certified, or otherwise authorized under the Health Occupations Article</li> </ol>



<b>MD Health- General Code §</b>	<b>Code Language</b>
	<p>or this article to provide health or medical care in:</p> <ol style="list-style-type: none"> <li>1. The ordinary course of business or practice of a profession; or</li> <li>2. An approved education or training program.</li> </ol> <p>(ii) "Health care provider" includes any agent or employee of a hospital.</p> <p>(iii) "Health care provider" does not include an individual who is eligible to receive notification under the provisions of § 18-213 of this title, including any law enforcement officer or any member of any fire department, ambulance company, or rescue squad.</p> <p>(6) "HIV" means the human immunodeficiency virus that causes acquired immune deficiency syndrome.</p> <p>(7) "Hospital" has the meaning stated in § 19-301 of this article.</p> <p>(8) "Public safety worker" means:</p> <ol style="list-style-type: none"> <li>(i) A career or volunteer member of a fire, rescue, or emergency medical services department, company, squad, or auxiliary;</li> <li>(ii) A law enforcement officer; [or]</li> <li>(iii) The State Fire Marshal or a sworn member of the State Fire Marshal's office; OR</li> <li>(IV) A forensic scientist who works under the direction of a law enforcement agency</li> </ol> <p>(b) In general; consent; notice. -- Notwithstanding the provisions of § 18-338.1 of this subtitle, the designated infectious disease/communicable disease officer of a hospital shall order a test for the presence of antibodies to the human immunodeficiency virus (HIV) under subsection (d) of this section when:</p> <ol style="list-style-type: none"> <li>(1) There has been an exposure in a hospital between a patient and a health care provider, or an exposure between a patient and a first responder before admission of the patient to a hospital, that, in accordance with the Centers for Disease Control and Prevention recommendations, would warrant recommending or offering chemoprophylaxis treatment for the health care provider or first responder;</li> <li>(2) Informed consent, or substitute consent as required under § 18-338.1 (c) of this subtitle, of the patient to test a blood sample of the patient for the presence of HIV was sought and the patient was unavailable or unable to consent;</li> <li>(3) (i) In accordance with hospital procedures, the health care provider involved in the exposure has given prompt notice of the exposure to the designated hospital infectious disease/communicable disease officer where the exposure occurred; or <ol style="list-style-type: none"> <li>(ii) 1. The first responder involved in the exposure has given prompt notice to the medical director with jurisdiction over the first responder; and</li> <li>2. The medical director has given prompt notice to the designated hospital infectious disease/communicable disease officer where the patient is admitted;</li> </ol> </li> <li>(4) The health care provider or first responder involved in the exposure has given informed consent and has submitted a blood sample to be tested for the presence of HIV; and</li> </ol>

<b>MD Health- General Code §</b>	<b>Code Language</b>
	<p>(5) The designated hospital infectious disease/communicable disease officer has made a determination, in accordance with the Centers for Disease Control and Prevention recommendations, that the testing of blood samples or other body fluids of the patient for the presence of antibodies to the human immunodeficiency virus (HIV) would be helpful in managing the risk of disease and health outcome of the health care provider or first responder.</p> <p>(c) Exposure between first responder and individual prior to hospital admission. -- If there has been an exposure between a first responder and an individual before the admission of the individual to a hospital:</p> <p>(1) The first responder shall give notice to the first responder's medical director in accordance with subsection (b) (3) (ii) 1 of this section;</p> <p>(2) The medical director shall act as an intermediary at all times between the first responder and the designated hospital infectious disease/communicable disease officer; and</p> <p>(3) The medical director and the designated hospital infectious disease/communicable disease officer shall ensure that all communications and information related to the exposure of the first responder are confidential.</p> <p>(d) Testing ordered. -- If the requirements of subsections (b) and (c) of this section are satisfied, the designated hospital infectious disease/communicable disease officer shall order tests to be conducted for the presence of antibodies to the human immunodeficiency virus (HIV) using a test procedure approved by the Department on:</p> <p>(1) Blood samples already obtained from the patient; or</p> <p>(2) Blood samples or other body fluids collected for the purpose of HIV testing under this section.</p> <p>(e) Notification of results. -- When the designated hospital infectious disease/communicable disease officer obtains the results of an HIV test conducted in accordance with the provisions of subsection (d) of this section, the designated hospital infectious disease/communicable disease officer shall directly notify the patient of the results of the HIV test and, to the extent possible, in a manner that will protect the confidentiality of the health care provider or the first responder and the patient.</p> <p>(f) Counseling and treatment. -- If the results of an HIV test conducted in accordance with the provisions of subsection (d) of this section are positive, the designated hospital infectious disease/communicable disease officer shall provide or arrange for the provision of appropriate counseling and treatment recommendations to the health care provider or first responder and the patient.</p> <p>(g) Confidentiality. --</p> <p>(1) Notwithstanding the provisions of Title 4, Subtitle 3 of this article, the medical records, including any physician order for an HIV test or the</p>

<b>MD Health- General Code §</b>	<b>Code Language</b>
	<p>results of an HIV test conducted under this section, may not be documented in the medical record of the patient, health care provider, or first responder.</p> <p>(2) The hospital where the exposure occurred shall maintain a separate confidential record or incident report for all HIV tests conducted under this section.</p> <p>(3) Each hospital shall adopt procedures for the confidential HIV testing of blood samples or other body fluids used or collected for purposes of this section.</p> <p>(4) Except as provided in paragraph (5) of this subsection, the medical records, including any physician order for an HIV test or the results of any HIV test conducted under this section, are:</p> <ul style="list-style-type: none"> <li>(i) Confidential; and</li> <li>(ii) Not discoverable or admissible in evidence in any criminal, civil, or administrative action.</li> </ul> <p>(5) If the identity of the patient or any other information that could be readily associated with the identity of the patient is not disclosed, the results of an HIV test conducted on a patient for purposes of this section may be introduced into evidence in any criminal, civil, or administrative action including the adjudication of a workers' compensation claim.</p> <p>(h) Costs. -- The costs incurred in performing an HIV test on a patient in accordance with the provisions of this section shall be paid by the hospital.</p> <p>(i) Adoption of written procedures. -- Each hospital shall develop written procedures to implement the provisions of this section.</p> <p>(j) Liability for breach of confidentiality. -- A health care provider, first responder, or hospital or designee of a hospital acting in good faith to provide notification or maintain the confidentiality of the results of a test conducted under this section may not be held liable in any cause of action related to a breach of patient, health care provider, or first responder confidentiality.</p>
§ 20-102	<p><b>Treatment for health-related problems</b></p> <p>(a) Minor who is married or parent. -- A minor has the same capacity as an adult to consent to medical treatment if the minor:</p> <ul style="list-style-type: none"> <li>(1) Is married; or</li> <li>(2) Is the parent of a child.</li> </ul> <p>(b) Emergency treatment. -- A minor has the same capacity as an adult to consent to medical treatment if, in the judgment of the attending physician, the life or health of the minor would be affected adversely by delaying treatment to obtain the consent of another individual.</p> <p>(c) Consent for specific treatment. -- A minor has the same capacity as an adult to consent to:</p> <ul style="list-style-type: none"> <li>(1) Treatment for or advice about drug abuse;</li> </ul>

<b>MD Health- General Code §</b>	<b>Code Language</b>
	<p>(2) Treatment for or advice about alcoholism;</p> <p>(3) Treatment for or advice about venereal disease;</p> <p>(4) Treatment for or advice about pregnancy;</p> <p>(5) Treatment for or advice about contraception other than sterilization;</p> <p>(6) Physical examination and treatment of injuries from an alleged rape or sexual offense;</p> <p>(7) Physical examination to obtain evidence of an alleged rape or sexual offense; and</p> <p>(8) Initial medical screening and physical examination on and after admission of the minor into a detention center.</p> <p>(c-1) Capacity to refuse treatment. -- The capacity of a minor to consent to treatment for drug abuse or alcoholism under subsection (c)(1) or (2) of this section does not include the capacity to refuse treatment for drug abuse or alcoholism in an inpatient alcohol or drug abuse treatment program certified under Title 8 of this article for which a parent or guardian has given consent.</p> <p>(d) Consent to psychological treatment. -- A minor has the same capacity as an adult to consent to psychological treatment as specified under subsection (c) (1) and (2) of this section if, in the judgment of the attending physician or a psychologist, the life or health of the minor would be affected adversely by delaying treatment to obtain the consent of another individual.</p> <p>(e) Liabilities. -- A physician, psychologist, or an individual under the direction of a physician or psychologist who treats a minor is not liable for civil damages or subject to any criminal or disciplinary penalty solely because the minor did not have capacity to consent under this section.</p> <p>(f) Disclosure. -- Without the consent of or over the express objection of a minor, the attending physician, psychologist, or, on advice or direction of the attending physician or psychologist, a member of the medical staff of a hospital or public clinic may, but need not, give a parent, guardian, or custodian of the minor or the spouse of the parent information about treatment needed by the minor or provided to the minor under this section, except information about an abortion.</p>
<p><b>TITLE 24. MISCELLANEOUS PROVISIONS</b></p> <p><b>SUBTITLE 8. AIDS PREVENTION STERILE NEEDLE AND SYRINGE EXCHANGE PILOT PROGRAM</b></p>	
§ 24-803.	<p><b>Design and operation</b></p> <p>The Program shall:</p> <p>(3) Include appropriate levels of staff expertise in working with injecting drug users and adequate staff training in providing community referrals, counseling, and preventive education;</p>

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	<p>(4) Provide for the dissemination of other preventive means for curtailing the spread of the HIV infection;</p> <p>(5) Provide a linkage for referrals to drug counseling and treatment services, and follow-up to those referrals to assure that participants receive the treatment they desire;</p> <p>(6) Educate injecting drug users on the dangers of contracting the HIV infection or the hepatitis B virus through needle-sharing practices and unsafe sexual behaviors;</p>
§ 24-807	<p><b>Participant identification; confidentiality.</b></p> <p>(a) Identification card and number.-</p> <p>(1) Each Program participant shall be issued an identification card with an identification number.</p> <p>(2) The identification number shall be cross-indexed to a confidential record containing pertinent data on the participant.</p> <p>(b) Confidentiality.- Any information obtained by the Program that would identify Program participants, including Program records, is:</p> <p>(1) Confidential;</p> <p>(2) Not open to public inspection or disclosure; and</p> <p>(3) Not discoverable in any criminal or civil proceeding.</p> <p>(c) Disclosure.-</p> <p>(1) Notwithstanding the provisions of subsection (b) of this section, upon the written consent of a Program participant, information obtained by the Program that identifies the Program participant may be released or disclosed to a person or agency participating in the Program.</p> <p>(2) In addition to the provisions of paragraph (1) of this subsection, if a Program participant raises the issue of participation in the Program either as a subject matter or legal defense in an administrative, civil, or criminal proceeding, the Program participant waives the confidentiality as to identity provided under subsection (b) (1) of this section.</p>
<p><b>SUBTITLE 9. PRINCE GEORGE'S COUNTY AIDS PREVENTION STERILE NEEDLE AND SYRINGE EXCHANGE PROGRAM.</b></p>	
§ 24-903	<p><b>Design, maintenance and purpose</b></p> <p>The Program shall:</p>

<b>MD Health- General Code §</b>	<b>Code Language</b>
	<p>(3) Include appropriate levels of staff expertise in working with injecting drug users and adequate staff training in providing community referrals, counseling, and preventive education;</p> <p>(4) Provide for the dissemination of other preventive means for curtailing the spread of the HIV infection;</p> <p>(5) Provide referrals to drug counseling and treatment services;</p> <p>(6) Educate injecting drug users on the dangers of contracting the HIV infection or the hepatitis B virus through needle-sharing practices and unsafe sexual behaviors;</p>
§ 24-907	<p><b>Identification of participants; confidentiality of information.</b></p> <p>(a) Identification card.-</p> <p>(1) Each Program participant shall be issued an identification card with an identification number.</p> <p>(2) The identification number shall be cross-indexed to a confidential record containing pertinent data on the participant.</p> <p>(b) Confidentiality of information.- Any information obtained by the Program that would identify Program participants, including Program records, is:</p> <p>(1) Confidential;</p> <p>(2) Not open to public inspection or disclosure; and</p> <p>(3) Not discoverable in any criminal or civil proceeding.</p> <p>(c) Consent to release of information.-</p> <p>(1) Notwithstanding the provisions of subsection (b) of this section, on the written consent of a Program participant, information obtained by the Program that identifies the Program participant may be released or disclosed to a person or agency participating in the Program.</p> <p>(2) In addition to the provisions of paragraph (1) of this subsection, if a Program participant raises the issue of participation in the Program either as a subject matter or legal defense in an administrative, civil, or criminal proceeding, the Program participant waives the confidentiality as to identity provided under subsection (b) (1) of this section.</p>

<b>Code of Maryland Regulations – Title 9: Department of Labor, Licensing and Regulation</b>
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Title 9 COMAR	Code Language
09.14.04.13	<p><b>Blood Tests [Boxing or kickboxing contestant]</b></p> <p>A. In compliance with the blood testing requirements of Business Regulation Article, §4-304.1, Annotated Code of Maryland, a blood sample from an individual desiring to participate in a boxing or kickboxing contest shall be:</p> <ol style="list-style-type: none"> <li>(1) Taken by a physician, phlebotomist, or other qualified health care provider chosen by the individual; and</li> <li>(2) Analyzed by a medical laboratory, certified in accordance with the Clinical Laboratory Improvement Act, 42 U.S.C. §263(a), for the presence of: <ol style="list-style-type: none"> <li>(a) Antibodies to the human immunodeficiency virus (HIV), and</li> <li>(b) The antigen of virus hepatitis B.</li> </ol> </li> </ol> <p>B. Only blood tests with negative results shall be submitted to the Commission.</p> <p>C. The required negative blood tests:</p> <ol style="list-style-type: none"> <li>(1) Shall be submitted to the Commission by an applicant for licensure as a boxer or kickboxer, a boxer, a kickboxer, or an authorized representative of the applicant, boxer, or kickboxer; and</li> <li>(2) May not be submitted by the person taking the blood sample, the medical laboratory testing the blood sample, or any other person.</li> </ol> <p>D. The required negative blood tests shall:</p> <ol style="list-style-type: none"> <li>(1) Have been performed within 30 days of the individual's application for a license; and</li> <li>(2) Except as provided in §E of this regulation, be submitted to the Commission: <ol style="list-style-type: none"> <li>(a) At the time the application is submitted to the Commission, or</li> <li>(b) Not later than the weigh-in for the first contest in which the boxer or kickboxer is to participate following the submittal of the application.</li> </ol> </li> </ol> <p>E. The Commission, in its discretion, may extend the time for the submittal of the required negative blood tests to a time immediately before the boxer's or kickboxer's first contest following the issuance of a license.</p> <p>F. To constitute documentary evidence satisfactory to the Commission, the negative test results from the medical laboratory shall be:</p> <ol style="list-style-type: none"> <li>(1) On the medical laboratory's letterhead; and</li> <li>(2) Signed by an authorized representative of the medical laboratory.</li> </ol> <p>G. In addition to submitting the required negative blood tests before a boxer's or kickboxer's first contest following the submittal of an application for licensure, a boxer or kickboxer is required to submit the required negative blood tests if:</p>

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	(1) The boxer or kickboxer previously tested positive for the antibodies to HIV or the antigens of virus hepatitis B; or (2) The Commission has reasonable cause to believe that the testing of the boxer's or kickboxer's blood may not result in a negative test for the presence of the antibodies to HIV or the antigens of virus hepatitis B.



<b>Code of Maryland Regulations – Title 10: Department of Health and Mental Hygiene</b>
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Title 10 COMAR	Code Language
10.10.06.04	<p><b>Reporting and Releasing Test Results.</b></p> <p>A. Primary Standard. A laboratory shall report or release test results, except results of a health awareness test, only to an authorized person.</p> <p>B. Standards.</p> <p>(1) For all test results except those from a health awareness test performed at a temporary laboratory or from a job-related alcohol or controlled dangerous substance test, a licensee shall ensure that the laboratory:</p> <p>(a) Reports medical test results only to the physician, dentist, or other authorized person who requested the test, or to another laboratory that requested the test;</p> <p>(b) Sends a copy of a test result, other than a result for a health awareness or job-related alcohol or controlled dangerous substances test, directly to the individual tested only after the laboratory:</p> <p>(i) Receives a written request from the individual, and</p> <p>(ii) Notifies the authorized person who requested the test that the results will be released to the individual tested;</p> <p>(c) Meets the applicable standards concerning test reports contained in 42 CFR 493.1109 and 493.1715; and</p> <p>(d) Reports a test result on a form that identifies the name and address of the laboratory that performed the test.</p> <p>(2) For test results stemming from a health awareness test, set forth in COMAR 10.10.01.03B, and performed at a temporary laboratory, the laboratory may report those results directly to the individual tested.</p>
10.10.12.04	<p><b>Public Health Testing License for Rapid HIV Antibody Testing</b></p> <p>A. A person shall obtain a public health testing license before offering or performing rapid HIV antibody testing.</p> <p>B. A person may not:</p> <p>(1) Offer or perform rapid HIV antibody testing without obtaining a public health testing license issued under this chapter; or</p> <p>(2) Transfer the public health testing license to another person.</p>

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	<p>C. The Secretary may issue a public health testing license under this chapter if the Secretary determines that the public health testing program meets the requirements of this chapter.</p> <p>D. The Department shall issue a public health testing license that:</p> <ol style="list-style-type: none"> <li>(1) Is valid for a period of not more than 2 years;</li> <li>(2) States that the license is limited to the performance of rapid HIV antibody testing; and</li> <li>(3) Lists the: <ol style="list-style-type: none"> <li>(a) Name of the director;</li> <li>(b) Name of the public health testing program; and</li> <li>(c) Address of the public health testing program.</li> </ol> </li> </ol> <p>E. To obtain, maintain, or renew a public health testing license, a person shall:</p> <ol style="list-style-type: none"> <li>(1) Make records and reports available to the Department;</li> <li>(2) Possess a valid CLIA Certificate of Waiver from the U.S. Health and Human Services' Centers for Medicare and Medicaid Services;</li> <li>(3) Submit to the Department: <ol style="list-style-type: none"> <li>(a) When seeking an initial license or license renewal, a quality assessment plan that describes the testing activities;</li> <li>(b) The location of all testing sites;</li> <li>(c) The name and address of the laboratory that will perform confirmatory tests for the person operating the public health testing program; and</li> <li>(d) A \$50 licensing fee for each initial license or license renewal, remitted as a check made payable to the Department of Health and Mental Hygiene; and</li> <li>(4) Submit amendments or changes to the public health testing program's quality assessment plan to the Department and obtain the Department's approval prior to implementation.</li> </ol> </li> </ol> <p>F. The Department shall:</p> <ol style="list-style-type: none"> <li>(1) Review each submitted quality assessment plan to determine compliance with the requirements of this chapter;</li> <li>(2) Conduct on-site surveys of public health testing programs: <ol style="list-style-type: none"> <li>(a) To investigate a complaint; and</li> <li>(b) Periodically to determine compliance with this chapter; and</li> </ol> </li> <li>(3) Approve the plan for implementation by the public health testing program if the plan is in compliance with the requirements of this chapter.</li> </ol> <p>G. The Secretary may impose one or more sanctions as provided in COMAR 10.10.08.01—.03 if the Secretary determines that the public health testing program does not meet the standards of this chapter.</p>
10.10.12.09	<p><b>Manufacturer's Requirements.</b></p> <p>A. Primary Standard. In addition to meeting the quality assessment plan requirements set forth in Regulation .05 of this chapter, a person</p>

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	<p>seeking or holding a public health testing license shall ensure that public health testing program personnel meet the requirements and follow the manufacturer's test specifications and instructions for the rapid HIV test being used.</p> <p>B. A person seeking or holding a public health testing license shall ensure that public health testing program personnel pay attention to the precautions and warnings set forth in the manufacturer's testing specifications and instructions for the rapid HIV test being used for:</p> <p>(1) Product usage;</p> <p>(2) Test system and kit controls; and</p> <p>(3) The step-by-step instructions for performing the rapid HIV antibody test.</p>
10.10.12.10	<p><b>Confirmatory Test</b></p> <p>When an individual has a positive test result with the rapid HIV antibody test, a person seeking or holding a public health testing license to offer or perform rapid HIV antibody testing shall:</p> <p>A. Offer to perform a confirmatory test;</p> <p>B. Collect a specimen to refer to a laboratory to perform a confirmatory test; or</p> <p>C. Refer that individual to a health care provider to have a confirmatory test performed.</p>
10.12.02.03	<p><b>Alleged Rape or Sexual Offense Victim Care</b></p> <p>A. The victim shall be considered an emergency patient with special needs that shall be met equally by the police and medical personnel. The victim shall be taken immediately to a quiet private area where tests and examinations will be performed on the victim. The following measures are indicated under certain circumstances:</p> <p>(1) Prophylactic medication shall be discussed and offered to the victim who is at risk for pregnancy as a result of the alleged rape or sexual assault;</p> <p>(2) Prophylactic medication shall be discussed and offered to the victim who is at risk for sexually transmitted infections and recommended initial tests and follow-up tests shall be performed, if indicated;</p> <p>(3) After the victim has been properly informed as to the significance of testing for the presence of the human immunodeficiency virus (HIV), the victim shall be referred to the appropriate anonymous or confidential, and free HIV counseling and test sites for potential baseline and follow-up testing and support services;</p> <p>(4) Injuries suffered by the victim shall be treated with appropriate consultation, as necessary; and</p> <p>(5) Tetanus prophylaxis may be administered, if indicated.</p>

<b>Title 10 COMAR</b>	<b>Code Language</b>
10.18.01.02	<p><b>Licensing Requirements</b></p> <p>A. A physician who certifies an applicant, pursuant to Regulation .03A(1) of this chapter, shall be licensed and legally authorized to practice medicine in the state in which the service is provided.</p> <p>B. Laboratories providing tests that are the basis for HIV diagnosis shall comply with the requirements of the Health-General Article, Title 17, Subtitles 2 and 3, Annotated Code of Maryland, or other applicable standards established by the state in which the service is provided.</p>
10.18.02.01	<p><b>Scope</b></p> <p>A. This chapter establishes the:</p> <ol style="list-style-type: none"> <li>(1) Procedures for assignment of unique patient identifying numbers to specimens from a human body to be tested for HIV infection or CD4+ lymphocyte count;</li> <li>(2) Requirements for reporting test results; and</li> <li>(3) Requirements for follow-up of laboratory reports of HIV infection or low CD4+ lymphocyte counts.</li> </ol> <p>B. This chapter applies to all instances of laboratory testing of specimens from a human body for HIV infection or CD4+ lymphocyte count, except as noted in §C or D of this regulation.</p> <p>C. This chapter does not apply if the specimen from a human body:</p> <ol style="list-style-type: none"> <li>(1) Is not tested for HIV infection or CD4+ lymphocyte count;</li> <li>(2) Is tested for HIV infection solely for the purpose of determining the suitability of the source individual as a prospective donor of blood, semen, or tissue;</li> <li>(3) Is taken from a patient at a designated anonymous HIV test site solely for the purpose of performing an anonymous HIV test;</li> <li>(4) Is tested for HIV or CD4+ lymphocyte count as part of research conducted by an institution within Maryland under the following conditions: <ol style="list-style-type: none"> <li>(a) All personal identifiers are removed from the specimen before testing;</li> <li>(b) The specimen cannot be linked to the individual from whom the specimen was taken;</li> <li>(c) The test result cannot be linked to the individual from whom the specimen was taken; and</li> <li>(d) The research protocol has been approved by an institutional review board;</li> </ol> </li> <li>(5) Is tested for HIV or CD4+ lymphocyte count as part of research conducted under a research protocol approved by an institutional review board of an institution located outside of Maryland;</li> <li>(6) Is taken from a patient known to reside outside of Maryland; or</li> <li>(7) Is tested for HIV or CD4+ lymphocyte count as part of a research project that has been approved under Regulation .02 of this chapter for</li> </ol>

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	<p>an exemption.</p> <p>D. If the director of a medical laboratory has submitted one report of:            (1) HIV infection from a patient as required under Regulation .06 of this chapter and another specimen from the same patient shows evidence of HIV infection, it is not necessary for the director to submit another report of HIV infection for the patient; or            (2) CD4+ lymphocyte count less than 200 per cubic millimeter for a patient as required under Regulation .06 of this chapter and another specimen from the same patient shows evidence of CD4+ lymphocyte count less than 200 per cubic millimeter, it is not necessary for the director to submit another report of CD4+ lymphocyte count less than 200 per cubic millimeter for the patient.</p>
10.18.02.04	<p><b>Physician Responsibility</b></p> <p>A. A physician authorized to order laboratory examinations shall include all of the following information on the written laboratory examination order for a test covered by this chapter:            (1) Unique patient identifying number;            (2) Zip code of the patient's residence; and            (3) Name, address, and telephone number of the individual ordering the test.</p> <p>B. The physician constructing the unique patient identifying number shall notify the patient that:            (1) The disclosure and use of a portion of the patient's Social Security number in the unique patient identifying number is voluntary;            (2) The authority for requesting a portion of the patient's Social Security number is found in Regulation .05 of this chapter;            (3) The information will be used for reporting HIV positive test results or results of a CD4+ lymphocyte count less than 200 per cubic millimeter to the Department or health officer; and            (4) A physician authorized to order laboratory examinations may not deny services to a patient who refuses to disclose or allow the use of the patient's Social Security number for the purpose of constructing a unique identifying number.</p> <p>C. A physician completing the laboratory examination order:            (1) Shall establish a method of matching the unique patient identifying number to the correct patient medical record;            (2) Shall make the necessary information from the patient medical record available for inspection by the AIDS Administration for a period of 120 days from the date the physician receives the laboratory results for the express purpose of completing the HIV case report as defined in Health-General Article, §18-207, Annotated Code of Maryland; and            (3) May destroy a document that matches the unique patient identifying number to the correct patient medical record 121 days after the date the physician receives the laboratory results.</p>

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10.18.02.06	<p><b>Reporting of Test Results</b></p> <p>A. Except as provided in Regulation .01C and D of this chapter, the director of a medical laboratory shall:</p> <p>(1) Submit a report to the health officer for the county where the laboratory is located, within 48 hours after an examination of a specimen from a human body shows one of the following:</p> <p>(a) A positive result on a test designed to confirm in a sample the presence of HIV infection in accordance with Health-General Article, §18-207(b)(1), Annotated Code of Maryland; or</p> <p>(b) A CD4+ lymphocyte count less than 200 per cubic millimeter;</p> <p>(2) Use the form provided by the Department in making the report required under §A(1) of this regulation;</p> <p>(3) Include all of the following information in the report required under §A(1) of this regulation:</p> <p>(a) Name and address of laboratory or assigned laboratory number;</p> <p>(b) Date the specimen was obtained from the patient;</p> <p>(c) Type and result of laboratory test, that is, HIV infection or CD4+ lymphocyte count less than 200 per cubic millimeter, or both of these;</p> <p>(d) Unique patient identifying number;</p> <p>(e) Zip code of the patient's residence;</p> <p>(f) Name of the physician authorizing the laboratory examination; and</p> <p>(g) Address and telephone number of the physician authorizing the laboratory examination; and</p> <p>(4) Contact the physician authorizing the laboratory examination to obtain any of the information, as required by §C of this regulation, that is not provided on the laboratory examination order.</p> <p>B. The director of a medical laboratory shall use only the unique patient identifying number and not the name of the individual in reporting to the local health officer.</p> <p>C. The director of a medical laboratory in which serum samples are tested for HIV may not disclose, directly or indirectly, the identity of an individual tested for HIV in a report submitted to the Department or the health officer for the county where the laboratory is located.</p>
10.18.02.07	<p><b>Out-of-State Laboratories</b></p> <p>An out-of-State laboratory that holds a permit to operate issued by Maryland and performs HIV or CD4+ lymphocyte tests shall submit the report required under Regulation .06 of this chapter to the Secretary.</p>
10.18.02.08	<p><b>Responsibility of Health Officer</b></p> <p>A. This regulation establishes requirements for follow-up by the health officer for laboratory reports of HIV infection or CD4+ lymphocyte</p>

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	<p>count less than 200 per cubic millimeter.</p> <p>B. The health officer shall:</p> <p>(1) Obtain information from the physician who ordered the laboratory examination in order to:</p> <p>(a) Determine into which of the following categories the patient fits:</p> <p>(i) HIV infection;</p> <p>(ii) AIDS diagnosis; or</p> <p>(iii) CD4+ lymphocyte count less than 200 per cubic millimeter without HIV infection;</p> <p>(b) Determine the exposure category if the patient has HIV infection;</p> <p>(c) Provide information about services for HIV-infected patients, including HIV clinics, case management, assistance programs, and partner notification; and</p> <p>(d) For cases of AIDS, remind the physician to comply with COMAR 10.18.03.03;</p> <p>(2) Submit the HIV case report as defined in Health-General Article, §18-207, Annotated Code of Maryland, to the AIDS Administration; and</p> <p>(3) Take action as specified in COMAR 10.18.04.</p>
10.18.02.09	<p><b>Record Maintenance and Confidentiality</b></p> <p>A. Except for a designated anonymous HIV test site, a person that ordered the laboratory examination shall make available to the AIDS Administration the information necessary to compile an HIV case report, according to Regulation .04 of this chapter, upon receipt of one of the following:</p> <p>(1) A positive result on a test designed to confirm in a sample the presence of HIV infection in accordance with Health-General Article, §18-207(b)(1), Annotated Code of Maryland; or</p> <p>(2) A CD4+ lymphocyte count less than 200 per cubic millimeter.</p> <p>B. Confidentiality.</p> <p>(1) A report required under this chapter is:</p> <p>(a) Confidential;</p> <p>(b) Not open to public inspection;</p> <p>(c) Not a medical record under Health-General Article, Title 4, Subtitle 3, Annotated Code of Maryland; and</p> <p>(d) Subject to the confidentiality requirements of Health-General Article, Title 4, Subtitle 1, Annotated Code of Maryland.</p> <p>(2) Section B(1) of this regulation does not apply to a disclosure by the Secretary to another governmental agency performing its lawful duties as authorized by an act of the Maryland General Assembly or the United States Congress if the Secretary determines that the agency to whom the information is disclosed will maintain the confidentiality of the disclosure.</p>
10.18.04.02	<p><b>Provisions to Limit Spread of Infection.</b></p> <p>A. The Secretary, with the assistance of the health officer, shall</p>

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	<p>provide, to professionals and the public, education and informational materials on HIV, modes of transmission, and prevention.</p> <p>B. A physician in attendance on an individual with HIV shall:</p> <p>(1) Provide or arrange for the provision of appropriate medical services, including evaluation and appropriate therapy for tuberculosis infection or disease;</p> <p>(2) Educate that individual on:</p> <p>(a) The nature of the disease;</p> <p>(b) The modes of transmission;</p> <p>(c) Safer sex practices;</p> <p>(d) The risks of pregnancy;</p> <p>(e) The risks of blood, organ, and semen donation;</p> <p>(f) The risks of transmission by the sharing of hypodermic needles and other drug paraphernalia; and</p> <p>(g) The services available to an individual infected with HIV; and</p> <p>(3) Request the assistance of the health officer if an individual with HIV refuses to comply with recommendations that reduce the risk of transmission to unsuspecting contacts.</p>
10.18.08.01	<p><b>Scope.</b></p> <p>A. Except as provided in §§B—E of this regulation, this chapter governs pretest and post-test counseling and requirements for written informed consent when HIV testing is performed.</p> <p>B. If an HIV test is performed on an individual solely for the purpose of determining the suitability of that individual as a prospective donor of blood, semen, or tissue, the requirements for counseling and written informed consent are addressed in:</p> <p>(1) Health-General Article, §18-334, Annotated Code of Maryland; and</p> <p>(2) COMAR 10.50.01.</p> <p>C. If an HIV test is performed on an individual as a result of a court order issued under the provisions of the Criminal Procedure Article,</p>



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	<p>§11-107—11-117, Annotated Code of Maryland:</p> <p>(1) The requirements for counseling are addressed in COMAR 10.52.10; and</p> <p>(2) Informed consent does not apply.</p> <p>D. HIV testing undertaken under provisions of Health-General Article, §18-338, Annotated Code of Maryland, is not governed by this chapter.</p> <p>E. HIV testing of specimens for research is not governed by this chapter if:</p> <p>(1) All personal identifiers have been removed from the specimen;</p> <p>(2) The specimen cannot be linked to the individual from whom the specimen was taken;</p> <p>(3) The test result cannot be linked to the individual from whom the specimen was taken; and</p> <p>(4) The research protocol has been approved by an institutional review board.</p>
10.18.08.06	<p><b>Requirements for Pretest Counseling.</b></p> <p>A. The health care practitioner who orders an HIV test to be performed by a laboratory shall ensure that pretest counseling is conducted and voluntary written informed consent is obtained from the individual to be tested for HIV on the form approved by the Secretary before:</p> <p>(1) A specimen is obtained for the purpose of HIV testing; or</p> <p>(2) An HIV test is performed on a specimen obtained for another purpose.</p> <p>B. An individual performing pretest counseling shall:</p> <p>(1) Be a health care provider as defined in Regulation .02 of this chapter;</p> <p>(2) Conduct pretest counseling in a manner to protect the confidentiality of the individual to be tested;</p> <p>(3) Include during the counseling, at a minimum, a presentation to the individual to be tested followed by a discussion with the individual of the following:</p> <p>(a) That a health care provider shall obtain voluntary written informed</p>

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	<p>consent from the individual to be tested for HIV on the form approved by the Secretary before obtaining a specimen for, or before performing, a test for HIV infection;</p> <p>(b) That a health care facility or laboratory may not use refusal to consent to an HIV test or a positive test result as the basis for denying services or treatment;</p> <p>(c) That a person licensed and qualified to render professional services under Health Occupations Article, Annotated Code of Maryland, may not:</p> <p>(i) Refuse professional services to the individual because the individual is HIV positive;</p> <p>(ii) Withhold professional services to the individual because the individual is HIV positive;</p> <p>(iii) Deny professional services to the individual because the individual is HIV positive; or</p> <p>(iv) Discriminate against an individual with regard to the provision of services because the individual is HIV positive;</p> <p>(d) That an individual may choose to be tested on either a confidential or anonymous basis, and how a designated anonymous test site can be located;</p> <p>(e) Primary modes of HIV transmission and means of preventing transmission;</p> <p>(f) Behavioral or medical indications that suggest the need for an HIV test, including specific medical indications already identified by the health care provider;</p> <p>(g) Advantages of knowing one's HIV status, including:</p> <p>(i) If negative, the ability to protect oneself from future HIV infection; and</p> <p>(ii) If positive, the ability to avoid transmission to others and to take advantage of available treatment to prevent or delay disease progression;</p> <p>(h) Type and purpose of the HIV test being offered to the individual;</p> <p>(i) That a negative HIV test result means either that:</p>

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	<p>(i) An individual is not infected with HIV; or</p> <p>(ii) The test was unable to detect the presence of HIV because an individual is in the early stage of infection and has not yet developed detectable evidence of HIV infection;</p> <p>(j) That an individual should be retested if the HIV test result is negative and the individual has:</p> <p>(i) Engaged in high-risk behavior in the past 6 months; or</p> <p>(ii) Had a potentially infectious exposure to blood;</p> <p>(k) That a positive HIV test result means the individual:</p> <p>(i) Is infected with HIV; and</p> <p>(ii) Could develop symptomatic HIV infection or AIDS;</p> <p>(l) That an individual with a positive HIV test result could experience:</p> <p>(i) Emotional discomfort; and</p> <p>(ii) If the test result becomes known in the community, discrimination in work, personal relationships, and insurance;</p> <p>(m) That an individual with a positive HIV test result:</p> <p>(i) Could have infected others since becoming infected and could infect others in the future;</p> <p>(ii) Has a responsibility to notify the individual's partners of the individual's HIV-positive status, or ask assistance of someone else in notifying those individuals; and</p> <p>(iii) Could be assisted by the local health officer to notify the individual's partners and that the local health officer would not reveal the individual's name to the individual's partners when notifying the partners;</p> <p>(n) That if an individual with a positive HIV test result refuses to notify that individual's partners:</p> <p>(i) That individual's physician may notify either the partners or the local health officer; and</p> <p>(ii) A local health officer, notified under the provisions of §B(3)(m)(iii) of this regulation, shall attempt to notify the partners of the HIV-</p>

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	<p>positive individual;</p> <p>(o) That if an individual with a positive HIV test result is diagnosed with AIDS, the individual's physician shall report that information to the local health department;</p> <p>(p) That if an individual has a positive HIV test result, the laboratory is legally obligated to report the individual's unique patient identifying number and zip code, but not the individual's name, to the local health department;</p> <p>(q) That in regard to the use of the individual's social security number:</p> <p>(i) The last four digits of the individual's social security number are being requested for use in constructing the individual's unique patient identifying number, under authority of COMAR 10.18.02.05;</p> <p>(ii) Disclosure of the individual's social security number to construct a unique patient identifying number is voluntary; and</p> <p>(iii) The individual will not be refused services if the individual does not allow use of the individual's social security number to construct a unique patient identifying number;</p> <p>(r) For an individual being counseled in a designated anonymous HIV test site:</p> <p>(i) That an assigned code will be used instead of a name;</p> <p>(ii) That test results can be obtained only by returning to the anonymous test site with the assigned code; and</p> <p>(iii) How to schedule a return appointment to obtain test results; and</p> <p>(s) For an individual being counseled at a site other than a designated anonymous test site:</p> <p>(i) How the confidentiality of HIV test results will be safeguarded;</p> <p>(ii) That HIV test results and other medical information could be shared with other individuals who are providing health care to the individual and need this information in order to provide effective health care;</p> <p>(iii) That the individual may be asked to sign a release granting permission to reveal HIV test results and other medical information to insurance companies, employers, and others; and</p>

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	<p>(iv) How and when to return to obtain HIV test results;</p> <p>(4) Include an opportunity for the individual being counseled to:</p> <p>(a) Ask questions to the individual performing pretest counseling about HIV infection and other topics described in §B of this regulation; and</p> <p>(b) Have those questions answered; and</p> <p>(5) Make necessary accommodation with respect to language or disability to ensure that the individual being counseled understands the information presented.</p>
10.18.08.07	<p><b>Requirement to Obtain Written Informed Consent.</b></p> <p>A. A health care practitioner who orders the HIV test shall ensure that voluntary written informed consent is obtained on the form approved by the Secretary from the individual to be tested for HIV in accordance with this regulation.</p> <p>B. Before obtaining an individual's signature on the form approved by the Secretary, the health care provider shall provide the individual with pretest counseling according to Regulation .06 of this chapter.</p> <p>C. If substitute consent is to be given as permitted under Health-General Article, §5-605, Annotated Code of Maryland, or other provisions of Maryland law, the health care provider shall provide the individual giving substitute consent with pretest counseling before obtaining voluntary written informed consent on the form approved by the Secretary.</p> <p>D. A health care provider shall obtain voluntary written informed consent from the individual to be tested for HIV on the form approved by the Secretary before a specimen is obtained for the purpose of HIV testing or before an HIV test is performed on a specimen obtained for another purpose, except that:</p> <p>(1) An individual tested at a designated anonymous test site may indicate consent by placing that individual's assigned code on the signature line of the form;</p> <p>(2) If an individual is unable to give informed consent, substitute consent may be given as permitted under Health-General Article, §5-605, Annotated Code of Maryland, or other provisions of Maryland law; and</p> <p>(3) In cases exempt from the requirements of this chapter, as specified in Regulation .01C—E of this chapter, it is not necessary to obtain written informed consent on the form approved by the Secretary.</p>

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	<p>E. The health care provider administering the informed consent form shall read and explain the form, through an interpreter if necessary, to anyone who cannot read or understand the form's contents.</p> <p>F. Before the health care provider obtains a specimen for an HIV test, the individual to be tested for HIV shall voluntarily sign the informed consent form approved by the Secretary or enter that individual's assigned code on the signature line.</p> <p>G. The health care provider who performed the pretest counseling shall sign the informed consent form.</p> <p>H. Required Form. The informed consent form for HIV testing shall be the form approved by the Secretary for that purpose.</p>
10.18.08.08	<p><b>Requirements for HIV Tests.</b></p> <p>A health care practitioner who orders an HIV test shall use a test designed to confirm in a sample the presence of HIV infection as defined by the Centers for Disease Control and Prevention laboratory criteria in accordance with Health-General Article, §18-207(b)(1), Annotated Code of Maryland.</p>
10.18.08.09	<p><b>Requirements for Notification of Test Results and Post-Test Counseling.</b></p> <p>A. An individual performing post-test counseling shall:</p> <ol style="list-style-type: none"> <li>(1) Be a physician or physician's designee;</li> <li>(2) Notify the individual who was tested for HIV of the test results as part of post-test counseling; and</li> <li>(3) Ensure that the post-test counseling is done in a manner that will protect the confidentiality of the test result and the individual tested.</li> </ol> <p>B. The health care practitioner who orders the HIV test shall ensure that post-test counseling is performed in accordance with this regulation.</p>
10.18.09.01	<p><b>Scope</b></p> <p>A. Except as provided in §§B—E of this regulation, this chapter governs counseling and requirements for written informed consent when HIV testing is performed on pregnant women.</p> <p>B. If an HIV test is performed on an individual solely for the purpose of determining the suitability of that individual as a prospective donor of</p>

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	<p>blood, semen, or tissue, the requirements for counseling and written informed consent are addressed in:</p> <ul style="list-style-type: none"> <li>(1) Health-General Article, §18-334, Annotated Code of Maryland; and</li> <li>(2) COMAR 10.50.01.</li> </ul> <p>C. If an HIV test is performed on an individual as a result of a court order issued under the provisions of Criminal Procedure Article, §§11-107—11-117, Annotated Code of Maryland:</p> <ul style="list-style-type: none"> <li>(1) The requirements for counseling are addressed in COMAR 10.52.10; and</li> <li>(2) The provisions in this chapter regarding informed consent do not apply.</li> </ul> <p>D. HIV testing undertaken under Health-General Article, §§18-336, 18-338, 18.338.1, and 18-338.3, Annotated Code of Maryland, is not governed by this chapter.</p> <p>E. HIV testing of specimens for research is not governed by this chapter if:</p> <ul style="list-style-type: none"> <li>(1) All personal identifiers have been removed from the specimen;</li> <li>(2) The specimen cannot be linked to the individual from whom the specimen was taken;</li> <li>(3) The test result cannot be linked to the individual from whom the specimen was taken; and</li> <li>(4) The research protocol has been approved by an institutional review board.</li> </ul>
10.18.09.03	<p><b>Patient Counseling</b></p> <p>A. A health care provider who orders an HIV test to be performed by a laboratory shall ensure that interactive counseling is conducted and voluntary written informed consent is obtained from the pregnant woman to be tested for HIV before:</p> <ul style="list-style-type: none"> <li>(1) A specimen is obtained for the purpose of HIV testing; or</li> <li>(2) An HIV test is performed on a specimen obtained for another purpose.</li> </ul> <p>B. An individual performing counseling shall:</p> <ul style="list-style-type: none"> <li>(1) Be a health care provider;</li> <li>(2) Conduct counseling in a manner to protect the confidentiality of the pregnant woman to be tested;</li> <li>(3) Inform and discuss with the pregnant woman, during the counseling that: <ul style="list-style-type: none"> <li>(a) The pregnant woman is not required to consent to an HIV test;</li> <li>(b) A health care provider is required to obtain voluntary written informed consent from the pregnant woman to be tested for HIV before obtaining a specimen or before performing a test for HIV infection;</li> <li>(c) A health care provider, health care facility, or laboratory may not use refusal to consent to an HIV test or a positive test result as the basis for denying prenatal care; and</li> </ul> </li> </ul>

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	<p>(d) An individual licensed and qualified to render professional services under Health Occupations Article, Annotated Code of Maryland, may not:</p> <ul style="list-style-type: none"> <li>(i) Refuse, withhold, or deny professional services to the individual because the individual is HIV positive; or</li> <li>(ii) Discriminate against an individual with regard to the provision of services because the individual is HIV positive; and</li> </ul> <p>(4) Provide education on and discuss with the pregnant woman:</p> <ul style="list-style-type: none"> <li>(a) The effect of a positive HIV test result on the pregnant woman and the fetus concerning the risk of transmission of HIV to the fetus; and</li> <li>(b) Recognized methods of reducing the risk of transmission of HIV to the fetus, including the use of pharmaceuticals during pregnancy known to reduce the risk of transmission of HIV to the fetus.</li> </ul>
10.18.09.04	<p><b>Requirements to Obtain Written Informed Consent</b></p> <p>A. Before obtaining a specimen to test for HIV, a health care provider shall obtain the pregnant woman's voluntary written informed consent on the perinatal HIV authorization form provided by the Secretary.</p> <p>B. The health care provider administering the informed consent form shall read and explain the form, through an interpreter if necessary, to anyone who cannot read or understand the form's contents.</p> <p>C. The health care provider who performs the counseling required under Regulation .03 of this chapter shall sign the perinatal HIV authorization form.</p>
10.18.09.05	<p><b>Requirements for HIV Tests</b></p> <p>A health care provider who orders an HIV test shall order the use of a test designed to confirm in a sample the presence of HIV.</p>
10.18.09.06	<p><b>Confidentiality of Test Results</b></p> <p>A. Except as otherwise provided in §B of this regulation, an individual, pursuant to Health-General Article, §18-338.2, Annotated Code of Maryland:</p> <ul style="list-style-type: none"> <li>(1) Shall keep the record of an HIV test performed under this chapter confidential; and</li> <li>(2) May not provide the record of an HIV test performed under this chapter: <ul style="list-style-type: none"> <li>(a) Under a discovery request; or</li> <li>(b) For admission into evidence in any criminal, civil, or administrative action.</li> </ul> </li> </ul> <p>B. If the identity or any other information that could readily be associated with the identity of the pregnant woman is not disclosed, a person may introduce the results of an HIV test performed under this</p>



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	chapter into evidence in a criminal, civil, or administrative action, including the adjudication of a workers' compensation claim.
10.18.09.07	<p><b>Notification of Test Results</b></p> <p>A. A health care provider or a health care facility that orders an HIV test shall notify the pregnant woman who was tested for HIV of the test results.</p> <p>B. In addition to what is required in Regulation .03B of this chapter, if the test result is positive, the health care provider who ordered the test shall:</p> <ul style="list-style-type: none"> <li>(1) Assist the individual who tests positive for HIV infection in accessing health care;</li> <li>(2) Counsel the individual to inform partners at risk for contracting HIV of the individual's positive HIV status; and</li> <li>(3) Offer to assist in notifying partners in accordance with Health-General Article, §18-337, Annotated Code of Maryland.</li> </ul>
10.18.09.08	<p><b>Immunity.</b></p> <p>A health care provider or a health care facility acting in good faith to provide the counseling required under Regulation .03 of the chapter may not be held liable in any cause of action related to a woman's decision to consent or not to consent to have an HIV test.</p>
10.21.21.06	<p><b>[Psychiatric] Rehabilitation and Support Services Provided.</b></p> <p>C. Health Promotion and Training.</p> <p>(2) PRP staff credentialed and privileged to do so shall provide training in communicable disease prevention, including prevention of sexually transmitted diseases and bloodborne pathogens, including HIV/AIDS.</p>
10.50.01.10	<p><b>Tissue Bank Standards—Personnel.</b></p> <p>(3) Responsibilities. The medical director shall:</p> <p>(f) Notify the living donor or, for a cadaveric donor, the cadaveric donor's physician for any legally allowed counseling of next of kin, of confirmed positive infectious disease test results;</p>
10.50.01.11	<p><b>Tissue Bank Standards—Testing to Minimize Disease Transmission.</b></p> <p>A. Required Testing. Tissue bank staff shall test prospective donors of cells or tissue intended to be used as an allograft for:</p> <p>(3) Human immunodeficiency virus type 1 and 2 (HIV-1 and HIV-2);</p>

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	<p>(4) Human T-lymphotropic virus type I and II (HTLV-I and HTLV-II); and</p> <p>C. Confidentiality and Release of Test Results. A technical director of a tissue bank may release results of laboratory tests performed by the tissue bank holding a medical laboratory license or performed for the tissue bank by another licensed laboratory only:</p> <p>(a) To:</p> <p>(i) The medical director of the tissue bank;</p> <p>(ii) An authorized person who requested the test; or</p> <p>(iii) Another laboratory that requested the test as set forth under COMAR 10.10.06.04; and</p> <p>(b) As allowed under:</p> <p>(i) Maryland Confidentiality of Medical Records Act, Health-General Article, Title 4, Subtitle 3, Annotated Code of Maryland; and</p> <p>(ii) The federal Health Insurance Portability and Accountability ACT (HIPAA), 42 U.S.C. §§1320d et seq., and implementing regulations at 45 CFR Parts 160 and 1640.</p>
10.52.10.01	<p><b>Scope.</b></p> <p>This chapter establishes procedures for HIV testing and counseling ordered under the provisions of Article 27, § 765, Annotated Code of Maryland.</p>
10.52.10.05	<p><b>Testing of Offender.</b></p> <p>A. Pretest Counseling, Blood Drawing, and Post-Test Counseling.</p> <p>(1) If the offender is incarcerated in a facility under the jurisdiction of the Department of Public Safety and Correctional Services, pretest counseling, blood drawing, and post-test counseling of the offender may be performed by an employee or contractor of either the:</p> <p>(a) Local health department; or</p> <p>(b) Department of Public Safety and Correctional Services.</p> <p>(2) If the offender is incarcerated in a facility under the jurisdiction of the county, pretest counseling, blood drawing, and post-test counseling of the offender may be performed by an employee or contractor of either the:</p>

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	<p>(a) Local health department; or</p> <p>(b) County.</p> <p>(3) If the offender is not incarcerated, an employee or contractor of the local health department shall perform pretest counseling, blood drawing, and post-test counseling of the offender.</p> <p>B. The health officer shall send a certified letter, accompanied by a copy of the court order for testing, to each offender who is not incarcerated, to notify the offender of all of the following:</p> <p>(1) That the health officer has been instructed by the court to perform an HIV test on the offender; and</p> <p>(2) That the offender has been scheduled for a test at a specified date, time, and place.</p> <p>C. Pretest Counseling.</p> <p>(1) The health officer or designee shall do all of the following:</p> <p>(a) Conduct a face-to-face discussion with the offender before blood is drawn for an HIV test;</p> <p>(b) Include all of the topics described in COMAR 10.52.08.03D(5)--(15) in the discussion; and</p> <p>(c) Sign a form indicating that pretest counseling of the offender was conducted.</p> <p>(2) The health officer or designee may obtain the signature of the offender on the form indicating that pretest counseling was conducted.</p> <p>D. Blood Drawing and Testing.</p> <p>(1) The health officer may not use the result of a previous HIV test instead of conducting an HIV test required under the provisions of Article 27, § 765, Annotated Code of Maryland.</p> <p>(2) The health officer may not use a sample of blood drawn for another purpose instead of obtaining a sample of blood in order to conduct an HIV test required under Article 27, § 765, Annotated Code of Maryland.</p> <p>(3) The health officer or designee shall:</p> <p>(a) Obtain a blood sample from the offender;</p> <p>(b) Put the code "RP" on the blood sample and the test order;</p>

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	<p>(c) Indicate on the test order that the result should be sent directly to the health officer; and</p> <p>(d) Send the blood sample to the Community Health Surveillance and Laboratories Administration within the Department for an HIV test.</p> <p>E. Post-Test Counseling.</p> <p>(1) Upon receipt of the test result of the offender, the health officer shall:</p> <p>(a) Discuss the result with the offender; or</p> <p>(b) Transmit the test result to the individual designated by the health officer to perform post-test counseling.</p> <p>(2) The health officer or designee of the health officer shall:</p> <p>(a) Notify the offender of the result of the HIV test; and</p> <p>(b) Discuss with the offender all of the topics listed in COMAR 10.52.08.07 which are applicable to the test result obtained.</p> <p>F. Charges.</p> <p>The local health department shall charge the offender for the expenses incurred in carrying out the responsibilities outlined in this regulation if the court has ordered the defendant to make restitution for expenses incurred by the Department under Article 27, § 765, Annotated Code of Maryland.</p> <p>G. State's Attorney Notification. The health officer shall notify the State's Attorney who transmitted the victim's request for an HIV test when one or more of the following actions occurs:</p> <p>(1) HIV testing of an offender, including pretest counseling and post-test counseling, is completed;</p> <p>(2) An offender refuses to allow a blood sample to be drawn for an HIV test;</p> <p>(3) An offender ordered by the court to make restitution for expenses incurred by the Department refuses to pay the required amount; or</p> <p>(4) An offender who is not incarcerated fails to appear for HIV testing.</p>
10.52.10.06	<p><b>Counseling of the Victim.</b></p> <p>A. The health officer or the designee of the health officer shall provide the victim with counseling addressing all of the following:</p>

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	<p>(1) An explanation of HIV and AIDS;</p> <p>(2) An explanation of the risks of HIV transmission in the course of a sexual or other offense;</p> <p>(3) The advisability of HIV testing of the victim;</p> <p>(4) The advisability of the victim taking precautions to prevent the spread of HIV until it is certain that the victim is not infected; and</p> <p>(5) The HIV test result of the offender.</p> <p>B. If the HIV test result of the offender is positive, the health officer or designee of the health officer shall offer, provide, or arrange for appropriate HIV counseling, as described in COMAR 10.52.08.07, including referral for appropriate health care and support services, for the victim.</p> <p>C. If the HIV test result of the offender is indeterminate, the health officer or designee of the health officer shall inform the victim about the advisability of requesting the court to order a second HIV test 8 to 12 weeks after the first test to determine whether the test result has changed.</p> <p>D. The health officer or designee of the health officer shall inform the victim about the requirements for confidentiality of information relating to the HIV test result of the offender, as specified in Regulation .07C and D of this chapter.</p>
10.52.10.07	<p><b>Confidentiality.</b></p> <p>A. Local Health Department Records. The local health department shall maintain separate confidential records relating to the counseling of a victim and the counseling and HIV testing of an offender required under the provisions of Article 27, § 765, Annotated Code of Maryland.</p> <p>B. Disclosure by Health Officer or Designee.</p> <p>(1) Except as provided in Regulations .05E and .06A(5) of this chapter and as otherwise provided by law, the health officer or designee of the health officer may not disclose the HIV result of the offender.</p> <p>(2) The health officer or designee of the health officer may not place the HIV test result of the offender in any record relating to the offender maintained within a facility in which the offender is incarcerated.</p> <p>C. Disclosure by Victim. The victim may not disclose the offender's test result to any individual unless the disclosure is necessary to protect the health and safety of:</p>

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	<p>(1) The victim;</p> <p>(2) The victim's sexual partner; or</p> <p>(3) The victim's family.</p> <p>D. Redisclosure. A person notified of the result of an HIV test performed under provisions of this chapter may not disclose the information except to protect the health and safety of:</p> <p>(1) The victim;</p> <p>(2) The victim's sexual partner; or</p> <p>(3) The victim's family.</p>