New Hampshire
Introduction and Table of Contents
April 8, 2011

To the Reader:

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

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

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

Thank you,

Sarah E. Neff, MPH
Director of Research and Evaluation

&

Ronald H. Goldschmidt, MD
Director

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

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

Definitions Commonly Used Nationally

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

Helpful Resources

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

Emergency Department Implementation Guide: http://edhivtestguide.org/

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

For questions or comments about the compendium, contact NCCC: neffs@nccc.ucsf.edu

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

1 Revised Recommendations for HIV Testing of Adults, Adolescents, and Pregnant Women in Health-Care Settings. MMWR Recomm Rep. 2006 Sep 22;55(RR-14):1-17; quiz CE1-4. http://www.cdc.gov/mmwr/preview/mmwrhtml/rr5514a1.htm
2 http://www.cdc.gov/mmwr/PDF/wk/mm5145.pdf
3 http://www.cdc.gov/hiv/topics/testing/resources/factsheets/rt-lab.htm

New Hampshire

A Quick Reference Guide for Clinicians to New Hampshire HIV Testing Laws

April 8, 2011

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

Informed Consent

- Informed consent is required in accordance with CDC HIV testing consent recommendations (see *State Policies Relating to HIV Testing, 2011*, below, for exceptions).

Counseling

- Post-test counseling as appropriate.

Provisos of Testing

- **Anonymous**
  - No specific provisions regarding anonymous testing were found.
- **Rapid**
  - A confirmatory test is required before notifying the patient of HIV test results.
- **Routine**
  - No specific provisions regarding routine testing were found.

Disclosure

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

Minor/Adolescent Testing

- Persons 14 years of age or older may consent to STD testing, HIV not explicitly included.

New Hampshire
Perinatal Quick Reference Guide:
A Guide to New Hampshire Perinatal HIV Testing Laws for Clinicians
April 8, 2011

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

Prenatal

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

Labor & Delivery

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

Neonatal

- No specific provisions regarding neonatal testing were found.

Other

- N/A

New Hampshire
State Policies Relating to HIV Testing, 2011

Table of Contents

	Policy Category	Type	Section Code(s)
RESTRICTIONS/ MANDATES	Restrictions on use of HIV test	Testing not required for employment/hiring of health care facility employees	10 RSA 141-F:9-a
	Mandatory testing within the criminal justice system	All persons convicted and confined to a correctional facility or committed to NH hospital when necessary for placement and/or management	10 RSA 141-F:5 NHCAR He-P 305.05
		Convicted sex offenders	62 RSA 632-A:10-b
	Mandatory testing outside of the criminal justice system	Occupational exposure – health care workers – employer will provide testing	10 RSA 281-A:23
		Blood, anatomical donations	10 RSA 141-F:5 NHCAR He-P 305.03
PRE-TESTING	Mandatory offering of HIV/AIDS information and/or testing	State department of health must provide HIV testing services	10 RSA 141-F:1 10 RSA 141-F:6
		Department must provide HIV information and guidance to Department of Education	10 RSA 141-F:3
		Public education on HIV must be provided by state	10 RSA 141-F:3
		Persons seeking marriage licenses must receive HIV information	10 RSA 141-F:3 43 RSA 457:28-a
	Informed consent	Informed consent required – in accordance with CDC guidelines	10 RSA 141-F:5
		Exceptions to required consent	10 RSA 141-F:5

		Consent required for insurance testing	37 RSA 417:4
		Consent not required for testing inmates	10 RSA 141-F:5
	Counseling requirements	Appropriate post-test counseling	10 RSA 141-F:7
		HIV counseling offered to sex offense victim and convicted offender	62 RSA 632-A:10-b
	Anonymous testing	No related laws found	
POST-TESTING	Disclosure/confidentiality	HIV test reports as confidential	NHCAR He-P 305.06
		Exceptions to confidentiality	10 RSA 141-F:7 10 RSA 141-F:8
		Disclosure to medical director when HIV+ patient committed to mental health facility	10 RSA 141-F:7
		Prohibited disclosure during state investigations to determine source of infection	10 RSA 141-F:9
		Disclosure of HIV status of sex offender to victim	62 RSA 632-A:10-b
		Penalties for unlawful disclosure	10 RSA 141-F:10 10 RSA 141-F:11
	Reporting	Name-based reporting	NHCAR He-P 301.02 NHCAR He-P 301.03
		Department mandated to develop list of reportable communicable diseases	10 RSA 141-C:8
OTHER	Testing of pregnant women and/or newborns	No related laws found	
	Testing of minors/adolescents	Minor must be 14 years or older to consent to STD services, HIV not explicitly included	10 RSA 141-C:18
		Physician may but is not required to inform parents or guardians	10 RSA 141-F: 7 , III
	Rapid HIV testing	Results must be reported as screening test result that requires confirmatory testing	NHCAR He-P 305.06
	Training and education of health care providers	Department to develop and conduct training sessions and workshops upon request	10 RSA 141-F:3
		Department must distribute HIV info to health care providers and health agencies	10 RSA 141-F:3

Recommended Resources

State of New Hampshire Revised Statutes Online
http://www.gencourt.state.nh.us/rsa/html/indexes/default.html

New Hampshire Code of Administrative Rules
http://www.gencourt.state.nh.us/rules/listagencies.html

New Hampshire Department of Health and Human Services
http://www.dhhs.state.nh.us/DHHS/DHHS_SITE/default.htm

Title X: Public Health

NH Title X Code §	Code Language
141-C:2	**Definitions.** In this chapter: I. "Agent" means any individual authorized by the commissioner to assist in carrying out the provisions of this chapter. II. "Baggage" means the personal belongings of travelers. Such personal belongings need not be in the personal possession of the traveler. III. "Care" means the furnishing of necessary services to a person infected with a communicable disease. The term includes provisions for shelter, food, and such other services that the person is unable to provide for himself due to his infection or its physical effects. IV. "Cargo" means any animal or animal product, plant or plant product, or inanimate material which has been consigned for transport, which is being transported, or which is otherwise under the control of a business engaged in transport. IV-a. "Child" means any person between birth and 18 years of age. IV-b. "Child care agency" means "child day care agency" as defined in RSA 170-E:2, IV and"child care agency" as defined in RSA 170-E:25, II. V. "Commodity" means any animal or animal product, plant or plant product, or inanimate material intended to be sold or distributed to the public. VI. "Communicable disease" means illness due to a microorganism, virus, infectious substance, biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of any such microorganism, virus, infectious substance, or biological product, which may be transmitted directly or indirectly to any person from an infected person, animal or arthropod (including insecta or arachnida) or through the vehicle of an intermediate host, vector, or inanimate environment. VII. "Conveyance" means any vessel, aircraft, motor vehicle or other mode of transportation which is engaged in the transport of passengers, baggage, or cargo. VIII. "Decontamination" means the act of rendering anything free from the causal agents of communicable disease. IX. "Commissioner" means the commissioner of department of health and human services, or his designee.

NH Title X Code §	Code Language
	X. "Department" means the department of health and human services. X-a. "Health care provider" means any person who or entity which provides health care services including, but not limited to, hospitals, medical clinics and offices, clinical laboratories, physicians, naturopaths, chiropractors, pharmacists, dentists, registered and other nurses, and nurse practitioners, paramedics, and emergency medical technicians. XI. "Health officer" means any individual appointed under RSA 128:1 or employed under RSA 47:12. XI-a. "Immunization" means inoculation with a specific antigen to promote antibody formation in the body. XI-b. "Immunizing agent" means a vaccine, antitoxin, or other substance used to increase a person's immunity to a disease. XII. "Isolation" means the separation, for the period of communicability, of infected persons from others in such places and under such conditions as to prevent or limit the direct or indirect transmission of the infectious agent from those infected to those who are susceptible or who may spread the agent to others. XII-a. "Protected health information" means any information, whether in oral, written, electronic visual, or any other form, that relates to an individual's physical or mental health status, condition, treatment, service, products purchased, or provision of care, and that reveals the identity of the individual whose health care is the subject of the information, or where there is a reasonable basis to believe such information could be utilized (either alone or with other information that is, or should reasonably be known to be, available to predictable recipients of such information) to reveal the identity of that individual. XIII. "Quarantine" means the restriction of activities of well persons who have been exposed to a case of communicable disease, during its period of communicability, to prevent disease transmission during the incubation period if infection should occur. It also means the detention of a conveyance, commodity, baggage, or cargo in a separate place for such time as may be necessary and during which decontamination may be carried out. XIII-a. "School" means any facility which provides primary or secondary education. XIV. "Treatment" means the provision of medical services to prevent, control, or eliminate the infection of a person by a communicable disease.
141-C:3	**Duties of Department.** The department shall:

NH Title X Code §	Code Language
	I. Identify, investigate, and test for communicable diseases posing a threat to the citizens of the state and its visitors. II. Educate the general public, persons who provide health services to the public, and those persons responsible for the health and well-being of other persons relative to measures that will prevent the contraction of communicable disease, minimize its effects, and impede its spread. III. Coordinate such medical, municipal, and other services as may be necessary to control, and, when possible, eradicate communicable diseases when they occur.
141-C:4	**Duties of Commissioner.** The commissioner shall: I. Identify communicable diseases to be reported to the department under RSA 141-C:8. II. Investigate outbreaks of communicable diseases under RSA 141-C:9. III. Establish, maintain, and suspend isolation and quarantine to prevent the spread of communicable diseases under RSA 141-C:11. IV. Order persons who pose a threat to the life and health of the public to receive such treatment and care as necessary to eliminate the threat under RSA 141-C:15. V. Purchase and distribute such pharmaceutical agents as may be deemed necessary to prevent the acquisition and spread of communicable disease under RSA 141-C:17. VI. Provide laboratory services to support the detection and control of communicable disease under RSA 141-C:19. VII. Educate the public relative to the cause, prevention and treatment of communicable disease and relative to the provisions of this chapter and its rules regarding reporting, investigations, examinations, treatment and care. VIII. Regulate, in public places, conveyances, and buildings, the use of a common drinking cup under RSA 141-C:6. IX. Prohibit, in public places, conveyances, or buildings the use of a common towel. X. Authorize treatment, under the orders of a licensed physician, as may be necessary to carry out the provisions of this chapter.
141-C:5	**Duties of Health Officers.**

NH Title X Code §	Code Language
	Health officers shall: I. Assist the commissioner, when requested to do so, in the establishment and maintenance of isolation and quarantine in their respective cities and towns, and enforce all rules adopted by the commissioner relative to isolation and quarantine. II. Attend meetings with the commissioner, when requested, for consultation on matters relating to public health, the restriction and prevention of communicable diseases, or the consideration of other important sanitary matters related to preventing or controlling the spread of communicable diseases.
141-C:6	**Rulemaking.** The commissioner shall adopt rules, pursuant to RSA 541-A, relative to: I. Identifying communicable diseases to be reported under RSA 141-C:8. II. The design and content of all forms required under this chapter including forms for reporting communicable diseases under RSA 141-C:8. III. Reporting required under RSA 141-C:7. IV. The conduct of investigations carried out under RSA 141-C:9, I. V. The procedure for disclosure of information under RSA 141-C:10. VI. Establishing, maintaining, and lifting the isolation and quarantine of cases, carriers, or suspected cases or carriers of communicable diseases under RSA 141-C:11. VII. Decontamination of commodities, conveyances, baggage, and cargo under RSA 141-C:11, IV. VIII. Issuing and carrying out orders for the treatment and care and for the restriction and control of diseases under RSA 141-C:15. IX. Distribution of pharmaceutical agents under RSA 141-C:17. X. Laboratory testing, fee schedules, and the waiving of fees under RSA 141-C:19. XI. Regulating use of the common cup under RSA 141-C:4, VIII. XII. The procedure for written orders under RSA 141-C:12. XIII. Other communicable diseases requiring immunization under RSA 141-C:20-a, I. XIV. The child's age for administration of a vaccine for immunization.

NH Title X Code §	Code Language
	XV. The number of doses necessary for each vaccine. XVI. The acceptable level of immunization necessary for a child to be enrolled in a school or child care agency under RSA 141-C:20-a, II(b). XVII. Procedures for keeping immunization records under RSA 141-C:20-b, II. XVIII. The immunization registry established under RSA 141-C:20-f. XIX. Identifying microbial isolates of reportable diseases and patient specimens to be retained or forwarded to the public health laboratories. XX. Establishing a registry of biological agents present in New Hampshire. XXI. Procedures relating to information, specimens, and samples as required under RSA 141-C:10, IV. XXII. Procedures for administration of and disbursement from the mosquito control fund, established in RSA 141-C:25.
141-C:7	**Reporting of Communicable Disease.** I. Upon becoming aware of any communicable disease or communicable disease syndrome listed under RSA 141-C:8, any health care provider, clinical laboratory director, the superintendent or other person in charge of any hospital, or other health care facility, or any other person having under his or her care or observation a person afflicted with a communicable disease or communicable disease syndrome, or who has reason to believe that a person was or might have been afflicted with a communicable disease at the time of death, shall report to the commissioner the communicable disease or communicable disease syndrome and shall provide social security numbers, if persons were given the option at the original point of collection to provide social security numbers voluntarily, and such additional information and periodic reports as required under RSA 141-C:9, I. II. Any veterinarian, livestock owner, veterinary diagnostic laboratory director, or other person engaged in the care of animals shall report animals having or suspected of having any disease that may cause a communicable disease in humans. III. Any clinical laboratory director shall forward to the department's public health laboratory isolates of reportable infectious microorganisms as specified by the commissioner. In addition, any clinical laboratory director performing any testing for reportable diseases shall retain the original patient specimens for 7 days after issuing a final test result for diseases specified by the commissioner and shall submit such specimens to the public health laboratories upon request.

NH Title X Code §	Code Language
	IV. In addition to the foregoing requirements for health care providers, a pharmacist shall report, if required under rulemaking procedures by the commissioner, any unusual or increased types of prescriptions, or unusual trends in pharmacy visits that may be caused by a communicable disease. Prescription-related events that require a report may include, but are not limited to: (a) An unusual increase in the number of prescriptions to treat fever, respiratory, or gastrointestinal complaints. (b) An unusual increase in the number of prescriptions for antibiotics. (c) An unusual increase in the number of requests for information on over-the-counter pharmaceuticals to treat fever, respiratory, or gastrointestinal complaints.
141-C:8	**List of Diseases; Report Forms.** The commissioner shall compile a list of reportable communicable diseases necessary to protect the citizenry. The commissioner shall develop and provide a form for the reporting of communicable diseases under this section. The form shall include, at a minimum, the name, age, address, occupation, and place of occupation of the person. Reportable information shall not include psychiatric, psychological, or other mental health records or information.
141-C:9	**Investigations; Examinations.** I. The commissioner or designee may investigate incidents of communicable diseases. Such investigations shall include, but not be limited to, requiring additional information and periodic reports from the reporting official, interviews with reporting officials, their patients, and other persons affected by or having information pertaining to the communicable disease, surveys of such individuals, inspections of buildings and conveyances and their contents, and laboratory analysis of samples collected during the course of such inspections. The commissioner shall adopt such rules as are necessary to carry out investigations with due regard for the rights of person and property. The commissioner may call upon health officers, as authorized by RSA 141-C:5, I, to assist in such investigations. II. Any person having or suspected of having a communicable disease, any person who is a communicable disease carrier or contact or any person who is suspected of being a communicable disease carrier or contact shall, when requested by the commissioner or designee, submit to a physical examination for the purpose of determining the existence of a communicable disease. Such persons shall submit specimens of body secretions, excretions, body fluids, and discharges for laboratory examinations when so requested by the commissioner or designee.
141-C:18	**Sexually Transmitted Disease.** II. Any minor 14 years of age or older may voluntarily submit himself to medical diagnosis and treatment for a sexually transmitted disease and a

NH Title X Code §	Code Language
	licensed physician may diagnose, treat or prescribe for the treatment of a sexually transmitted disease in a minor 14 years of age or older, without the knowledge or consent of the parent or legal guardian of such minor.
141-F:1	**Statement of Purpose** I. It is the purpose of this chapter to designate the department of health and human services as the state agency responsible for preparing information on the transmission and prevention of the human immunodeficiency virus and the hepatitis B virus. II. It is also the purpose of this chapter to require the department of health and human services to provide testing for the human immunodeficiency virus, to assure the quality of similar testing by other laboratories, and to carry out epidemiological analysis and follow-up. III. Finally, it is the purpose of this chapter to protect individuals from unauthorized disclosure of human immunodeficiency virus test results.
141-F:2	**Definitions** In this chapter: I. "Antibody" means a protein produced by the body in response to specific foreign substances such as bacteria or viruses. II. "Antigen" means a substance that stimulates the production of antibodies. II-a. "Communicable hepatitis B virus infection" means the presence of both hepatitis B surface antigen and hepatitis B e antigen in the blood. III. "Commissioner" means the commissioner of the department of health and human services or his designee. IV. "Department" means the department of health and human services. IV-a. "Exposure prone invasive procedure" means any medical, surgical, or dental procedure during which a health care worker palpates a needle tip in a body cavity, or any procedure during which a health care worker's fingers and a needle or other sharp instrument or object are present in a poorly visualized or highly confined anatomic site. IV-b. "Health care worker" means dentists and dental hygienists licensed under RSA 317-A, nurses licensed under RSA 326-B, physicians licensed under RSA 329, physician assistants licensed under RSA 328-D, and podiatrists licensed under RSA 315. V. "Human immunodeficiency virus" means the virus, or its variants, which are the causative agents of acquired immune deficiency syndrome (AIDS), AIDS related conditions, and other clinical manifestations.

NH Title X Code §	Code Language
	VI. "Serologic positive" means the presence in an individual, as detected by laboratory testing, of an antibody or antigen to the human immunodeficiency virus.
141-F:3	**Powers and Duties of the Department** The department shall: I. Provide information and guidance to the department of education for their development of courses and programs relative to the human immunodeficiency virus which meet the requirements of RSA 186:11, IX and XXVII. II. Develop training courses and materials on the human immunodeficiency virus and related issues, for police, fire, and emergency medical services personnel and provide assistance on the development and implementation of such courses and materials to the relevant state and local agencies. III. Distribute informational materials on the human immunodeficiency virus to health care providers, health care institutions, local health and social service agencies, local units of government, and, upon request, to other public and private agencies and organizations. IV. Provide information to persons at high risk of acquiring the human immunodeficiency virus. V. Provide assistance to government agencies, school districts, health care institutions, businesses, and industries to establish policies and practices for coping with the human immunodeficiency virus. VI. Disseminate information to the general public, using print and broadcast media, on the human immunodeficiency virus, its causes and effects, and on methods of prevention and control. VII. Conduct training sessions and workshops, upon request, for educators, physicians, and the staff and volunteers of hospitals and other health care agencies, licensed under RSA 151, on the human immunodeficiency virus, methods of prevention and control, methods for pre-test and post-test counseling for infected persons and their families, and management of medical care and treatment of infected persons. VIII. Within the limits of appropriated funds, augment community efforts by providing, directly or by contract, with local health or social service agencies or with any other relevant agency or organization, services relating to the human immunodeficiency virus. IX. Provide laboratory testing services in accordance with RSA 141-F:6 to detect the presence of the human immunodeficiency virus in samples submitted by health care providers.

NH Title X Code §	Code Language
	X. [Repealed.] XI. Conduct follow-up investigations in accordance with RSA 141-F:9. XII. Apply for, receive, and expend funds made available to the state by the federal government or other sources and use such funds to carry out the provisions of this chapter. XIII. Provide an informational brochure relative to the human immunodeficiency virus to persons applying for a marriage license and make such brochure available to town and city clerks for distribution under RSA 457:23, III.
141-F:5	**Consent for Testing; Exceptions** A physician or advanced registered nurse practitioner licensed or registered to practice in this state, an employee of a health care facility licensed under RSA 151, whether paid or unpaid, and an employee of a blood bank, blood center, plasma center, or agency which receives blood donations, whether paid or unpaid, may test when the patient has consented for the presence of an antibody or antigen to a human immunodeficiency virus in accordance with the most current testing and consent recommendations of the Centers for Disease Control and Prevention. Testing without consent may occur in the following situations: I. Any blood bank, blood center, plasma center, or agency which purchases or receives donated whole blood, blood plasma, a blood product, or a blood derivative shall, prior to its distribution or use, subject such blood to a test which conforms to rules adopted by the commissioner under RSA 141-F:4. II. A physician or advanced registered nurse practitioner licensed or registered to practice in this state who procures, processes, distributes, or uses a human body part, tissue, or fluid donated under RSA 291-A may, without obtaining consent to the testing, test for the presence of an antibody or antigen to the human immunodeficiency virus, in accordance with rules adopted by the commissioner under RSA 141-F:4 in order to assure medical acceptability of the gift for the purpose intended. III. A health care facility engaged in medical research may, without first obtaining consent to the testing, subject any body parts, fluids, or tissues to a test for the presence of an antibody or antigen to a human immunodeficiency virus in accordance with rules adopted by the commissioner under RSA 141-F:4 if the testing is performed in a manner by which the identity of the test subject is not known and may not be retrieved by the researcher. IV. Individuals convicted and confined to a correctional facility pursuant to the order of a court, or committed to New Hampshire hospital, may be

NH Title X Code §	Code Language
	tested without obtaining written consent to the testing, when the results of such tests are necessary for the placement and management of such individuals in the facility, pursuant to the written policies and procedures of the chief administrator of the facility. V. A physician licensed to practice in this state, or a person authorized by the physician, may, without obtaining consent to the testing, test for the presence of an antibody or antigen to a human immunodeficiency virus when the person being tested is incapable of giving informed consent and when a test for the presence of an antibody or antigen to a human immunodeficiency virus is immediately necessary to protect the health of the person.
141-F:6	**Testing** I. The department, or agencies operated by or under contract with the department, shall offer laboratory testing, in accordance with RSA 131, for the presence or absence of antibodies or antigens of the human immunodeficiency virus. II. All other laboratories, public or private, which test human blood or any other business or organization, public or private, which tests human blood, tissue, or other samples as part of its operations may offer to test samples for the presence or absence of antibodies or antigens of the human immunodeficiency virus.
141-F:7	**Reporting of Test Results** I. Except as provided in this section, test results of samples submitted for laboratory analysis under RSA 141-F:6 shall not be disclosed to any person or agency except: (a) The physician ordering the test or the person authorized by the physician; and (b) The commissioner, in accordance with RSA 141-C:7. II. Test results shall be disclosed by the physician or the person authorized by the physician to the person who was tested. Such person shall be provided with appropriate counseling at the time of notification. III. If the person with a serologic positive test result is less than 18 years of age or is mentally incapable of understanding the ramifications of a positive test result, the physician or the person authorized by the physician may disclose the test results to a parent or legal guardian. In such cases, the parent or legal guardian shall be entitled to appropriate counseling. IV. If the person with a serologic positive test is confined to a facility pursuant to an order of a court, or committed to a mental health facility, the results of the tests shall be disclosed by the physician or the person authorized by the physician to the medical director or chief medical officer of such facility. The medical director or chief medical officer of the facility

NH Title X Code §	Code Language
	shall provide to the administrator in charge of the facility whatever medical data is necessary to properly, assign, treat, or manage the affected individual. The administrator may disclose this information only to those individuals who require such information to properly assign, treat, or manage the affected individual.
141-F:8	**Confidentiality; Release of Information** I. The identity of a person tested for the human immunodeficiency virus shall not be disclosed except as provided in RSA 141-F:7 and RSA 141-F:8**,** III, IV and V. II. All records and any other information pertaining to a person's testing for the human immunodeficiency virus shall be maintained by the department, health care provider, health or social service agency, organization, business, school, or any other entity, public or private, as confidential and protected from inadvertent or unwarranted intrusion. Such information obtained by subpoena or any other method of discovery shall not be released or made public outside of the proceedings. III. Notwithstanding RSA 141-C:10 and paragraph I of this section, the identity of a person tested for the human immunodeficiency virus may be disclosed in response to a written request if such person has given written authorization for such disclosure. Such written request shall state the reasons for the request and shall contain only the identity of the infected person. IV. Notwithstanding RSA 141-C:10 and paragraph I of this section, a physician licensed to practice in this state or other health care provider may disclose information pertaining to the identity and test results of a person tested for a human immunodeficiency virus to other physicians and health care providers directly involved in the health care of the person when the disclosure of such information is necessary in order to protect the health of the person tested. Information thus disclosed shall be maintained as provided in paragraph II of this section. V. Notwithstanding RSA 141-C:10 and paragraph I of this section, the identity of a person tested for the human immunodeficiency virus and found to be infected may be disclosed to a blood bank, blood center, plasma center, or other agency which receives blood donations, provided that the information remains confidential and protected from inadvertent or unwarranted intrusion or disclosure.
141-F:9	**Disease Control** The commissioner or his designee shall conduct follow-up activities when reports of individuals found serologic positive are provided under RSA 141-C:7. I. Such activities shall be conducted with due regard to the personal and property rights of the individual person and shall be limited to discovering

NH Title X Code §	Code Language
	the potential source of the infection and to identifying persons who may have been infected by such individual. II. The commissioner shall, if possible, do contact referral and shall encourage the individual person to notify any persons who may be or have been infected and urge such persons to undergo testing pursuant to the provisions of this chapter. III. During the course of an investigation under this section, the commissioner shall not disclose the identity of the individual found serologically positive.
141-F:9-a	**Testing Not Required** Nothing in this chapter shall be construed to require that health care workers be tested for the presence of the human immunodeficiency virus or the hepatitis B virus as a condition of employment or practice in a health care facility licensed in accordance with RSA 151.
141-F:9-b	**Invasive Procedure Applications.** I. No health care worker who is knowingly infected with the human immunodeficiency virus or communicable hepatitis B virus shall perform or participate in the performance of any exposure prone invasive procedure unless the health care worker has filed a letter of application with the commissioner to engage in such procedures. II. Upon receipt of such letter of application, the commissioner shall, within 30 days: (a) Notify the licensing authority responsible for licensing the applicant of the pending application; and (b) Appoint an expert review panel to make a decision whether to approve the application, deny the application, or approve the application subject to specific conditions. III. A health care worker who submits a letter of application under this section shall have consented to the release of the health care worker's identity, medical records and documents necessary to carry out the provisions of this subdivision to the department, to the expert review panel, to relevant health care licensing authorities and to relevant employers engaged in providing health care. Any release of information shall be subject in all cases to the confidentiality provisions of RSA 141-F:8, II. IV. A letter of application submitted in accordance with this section shall immediately stay the licensing board from exercising any jurisdiction over the applicant based on the infectious disease issues raised in the application until the licensing board receives notice of a review panel decision pursuant to RSA 141-F:9-d. V. Any decision made by the expert review panel established in RSA 141-

NH Title X Code §	Code Language
	F:9-c shall be based upon an interview with the applicant and a review of medical records and similar relevant documents. Members of the expert review panel shall base their decision solely upon the risk of transmission of the human immunodeficiency virus or the hepatitis B virus from the applicant to patients during the course of exposure prone invasive procedures. The applicant shall have a right to submit relevant documents to the panel as part of the application process and shall provide the panel with such medical records and medical records releases as the panel may request. Relevant documentation may include, but is not limited to, letters or affidavits from colleagues of the applicant. The panel may interview the applicant, but no testimony shall be taken as such and no formal evidentiary hearing shall be held before the panel. An applicant's failure to cooperate with an expert review panel request for information shall be a basis for the expert review panel to deny the application. VI. The expert review panel shall approve or deny an application, and may impose conditions limiting the type of exposure prone invasive procedures the health care worker may perform and the circumstances under which such procedures may be performed. The review panel may also impose conditions requiring notification of previous patients who may have experienced exposure prone invasive procedures in which the health care worker participated while serologic positive or infected with the hepatitis B virus, notification of prospective patients prior to undergoing exposure prone invasive procedures, and notification of past and future employers engaged in the provision of health care. The review panel shall require notification of current employers engaged in the provision of health care when any conditions are imposed. VII. Any decision made by the review panel to grant or deny an application, or to impose conditions, shall require a vote of at least 3 members of the expert review panel.
141-F:10	**Civil Liability** Any person who purposely violates RSA 141-F:7, I or RSA 141-F:8, I and thereby discloses the identity of a person infected by a human immunodeficiency virus shall be liable to such person for actual damages, court costs and attorneys' fees, plus a civil penalty of up to $ 5,000 for such disclosure.
141-F:11	**Penalty** Any person who purposely violates the provisions of RSA 141-F:5-141-F:8 or any rules adopted pursuant to them shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person.
141-G:2	**Medical Referral Consultant.** I. Each employer of emergency response/public safety workers shall identify a medical referral consultant who has agreed to accept referrals and to evaluate and follow up such workers' unprotected exposures. The

NH Title X Code §	Code Language
	medical referral consultant shall be a licensed physician, a registered nurse, advanced registered nurse practitioner or licensed physician assistant. If none of these is available the employer shall request written approval from the department for an alternate. II. The medical referral consultant shall: (a) Receive emergency response/public safety worker incident report forms. (b) Receive information from the infection control officer, the exposed worker's private physician, or both, regarding the worker's exposure to an infectious disease, as appropriate. (c) Conduct a medical examination, evaluate the exposure, and give appropriate prophylactic treatment and follow-up treatment and advice, or, if the medical referral consultant is not a licensed physician, refer the exposed worker immediately to a licensed physician for such examination, evaluation, treatment and advice. (d) Make all reasonable efforts to request and obtain a blood specimen from a source individual when, in the opinion of the medical referral consultant, a test on such blood specimen from a source individual when, in the opinion of the medical referral consultant, a test on such blood specimen is necessary in order to determine the proper prophylactic treatment or advice for the exposed worker, provided that the source individual or the source individual's legal guardian consents to such test and the disclosure of such test results. (e) Maintain a record relating to any emergency response/public safety worker's exposure to an infectious disease. The manner of recordkeeping shall assure the confidentiality of all information.
141-G:5	**Notification by Health Care Facilities; Duties of Department; Confidentiality.** I. When the source individual is transported to a health care facility licensed under RSA 151, the infection control officer shall receive and review a copy of the emergency response/public safety worker incident report form. If the transported source individual is diagnosed as having an infectious disease which could have been transmitted via the unprotected exposure, the infection control officer shall orally notify within 48 hours and in writing notify within 72 hours of the determination, the medical referral consultant listed on the form. The notice shall include, but not be limited to, the finding, if any, that an unprotected exposure may have occurred and the identity of such infectious disease. The infection control officer or health care facility shall provide the source individual diagnosed as having the infectious disease with the names of persons who were informed of the source individual's condition. II. The department shall determine the method by which the written notification of the incident report is conveyed to the medical referral consultant. III. When the source individual is transported to a health care facility licensed under RSA 151, the testing performed on the transported source

NH Title X Code §	Code Language
	individual to complete the diagnosis under paragraph I shall not be in addition to any testing which would be conducted during the care and treatment of the individual, unless additional tests are determined as necessary by the infection control officer and the individual's attending physician because of the nature of the unprotected exposure, and the individual consents to the tests. IV. Notwithstanding the provisions of this chapter, any drawing of blood and testing carried out under this chapter for the presence of the human immunodeficiency virus, any notifications of persons about such test results, and the confidentiality of such test results shall be in accordance with the provisions of RSA 141-F.
141-G:7	**Immunity From Civil Liability.** No facility licensed under RSA 151 or agent, employee, administrator, physician, official, or other representative of such facility shall be held jointly or severally liable, either as a facility or personally, for reporting as required under this chapter, if such report was made in good faith and was in accordance with the confidentiality procedures of the facility and RSA 141-F. All such parties who have acted in good faith shall have total immunity from civil or criminal liability for any act performed in the fulfillment of the duties imposed by this chapter.

Title XXIII: Labor

NH Title XXIII Code §	Code Language
281-A:1	**Title.** This chapter shall be known as the ""Workers' Compensation Law.''
281-A:2	**Definitions.** I-d. ""Bloodborne disease'' means pathogenic microorganisms that are present in human blood and can cause disease in humans. These pathogens include, but are not limited to, hepatitis B virus (HBV) and human immunodeficiency virus (HIV).
281-A:23	**Medical, Hospital, and Remedial Care**. VI. An employer subject to this chapter, or the employer's insurance carrier, may furnish or cause to be furnished, testing for the presence of a bloodborne disease when a critical exposure that arises out of and in the course of employment occurs. Such testing shall be provided without prejudice as to the issue of the causal relationship of any subsequently diagnosed bloodborne disease to the employee's work and without prejudice to the compensability of the bloodborne disease as an occupational disease or an accidental injury for the purposes of RSA 281-A.

Title XXXVII: Insurance

NH Title XXXVII Code §	Code Language
417:4	**Unfair Methods, Acts, and Practices Defined.** The following are hereby defined as unfair methods of competition and unfair and deceptive acts and practices in the business of insurance: XIX. Human Immunodeficiency Virus. No person engaged in the business of insurance in this state shall test for the presence of an antibody or antigen to a human immunodeficiency virus other than in accordance with the provisions of this paragraph. Such persons shall not be subject to any provision of RSA 141-F. (a) No person may test any individual in connection with an application for insurance for the presence of an antibody or antigen to a human immunodeficiency virus unless such individual gives written consent on a form designed by the commissioner of the department of health and human services with consultation and approval by the commissioner of insurance. The form shall contain information about the medical interpretations of positive and negative test findings, disclosure of test results, and the purpose for which the test results may be used. (b) If the laboratory analysis is performed within this state, only laboratories certified by the department of health and human services shall be used to test for the presence of an antibody or antigen to a human immunodeficiency virus. If the laboratory analysis is conducted without this state, only laboratories licensed by the United States Department of Health and Human Services under the Clinical Laboratory Improvement Act of 1988, as amended, shall be used to perform such tests. (c) In the event of a positive test result on a blood, urine, or oral specimen, or a positive test result on an FDA approved test, a person who tests for the presence of an antibody or antigen to a human immunodeficiency virus shall disclose the test results, but only to: (1) The individual tested; (2) Such other person or entity as the individual tested may authorize by written consent to receive the test results, which consent shall be clearly identifiable as part of the form described in subparagraph (a) of this paragraph. (d) Notwithstanding the provisions of subparagraph (c), if the test results are positive or indeterminate and the individual tested has not given written consent authorizing a physician to receive the test results, such individual shall be urged, at the time the individual is informed of the positive or indeterminate test results, to contact the commissioner of the department of health and human services for appropriate counseling. (e) A person who requires the test for the presence of an antibody or

NH Title XXXVII Code §	Code Language
	antigen to a human immunodeficiency virus shall maintain all test results and records pertaining to test results as confidential and protected against inadvertent or unwarranted intrusion. Such test results obtained by subpoena or any other method of discovery shall not be released or made public outside the proceedings. (f) The commissioner of insurance shall adopt rules, under RSA 541-A, relative to: (1) Recordkeeping designed to maintain the confidentiality of an individual tested under this paragraph. (2) Who may have access to such records and the conditions of such access.

Title XLIII: Domestic Relations

NH Title XLIII Code §	Code Language
457:28-a	**Brochures Relative To Family Planning Services, Fetal Alcohol Syndrome, and Human Immunodeficiency Virus.** The town clerk shall make available to the public, in the office of the town clerk, a list of family planning agencies and services available in the state, the informational brochure relative to fetal alcohol syndrome prepared pursuant to RSA 132:2, XI, and the informational brochure relative to human immunodeficiency virus prepared pursuant to RSA 141-F:3, XIII. The department of health and human services shall supply each town clerk with a sufficient quantity of the brochures initially, to be resupplied upon the request of the town clerk.

Title LXII: Criminal Code

NH Title LXII Code §	Code Language
632-A:10	**Prohibition from Child Care Service of Persons Convicted of Certain Offenses.** I. A person is guilty of a class A felony if, having been convicted in this or any other jurisdiction of any felonious offense involving child pornography, or of a felonious physical assault on a minor, or of any sexual assault, he knowingly undertakes employment or volunteer service involving the care, instruction or guidance of minor children, including, but not limited to, service as a teacher, a coach, or worker of any type in child athletics, a day care worker, a boy or girl scout master or leader or worker, a summer camp counselor or worker of any type, a guidance counselor, or a school administrator of any type. II. A person is guilty of a class B felony if, having been convicted in this or any other jurisdiction of any of the offenses specified in paragraph I of this section, he knowingly fails to provide information of such conviction when applying or volunteering for service or employment of any type involving the care, instruction, or guidance of minor children, including, but not limited to, the types of services set forth in paragraph I. III. A person is guilty of a class B felony if, having been convicted in this or any other jurisdiction of any of the offenses specified in paragraph I of this section, he knowingly fails to provide information of such conviction when making application for initial teacher certification in this state.
632-A:10-b	**HIV Testing** I. The state shall administer to any person convicted of any offense under this chapter, except violations of RSA 632-A:10 or RSA 632-A:19, a test to detect in such person the presence of the etiologic agent for acquired immune deficiency syndrome. I-a. The results of such test shall be disclosed to the person convicted and to the office of victim/witness assistance. The office of victim/witness assistance is authorized to disclose the test results to the county attorney victim/witness advocates and to the victim. The victim may be notified whether or not the victim has requested notification. II. Notwithstanding RSA 141-F:7 and RSA 141-F:8, the state shall disclose results of a test administered pursuant to paragraph I and RSA 141-F:5, IV, to any person convicted, to the office of victim/witness assistance and may disclose the results to the victim. III. The state shall provide counseling to the victim and the person convicted for such an offense regarding HIV disease, HIV testing for the victim in accordance with applicable law and referral for appropriate health care and support services.

NH Title LXII Code §	Code Language
	IV. For purposes of this section: (a) "HIV" means "human immune deficiency virus" as defined in RSA 141-F:2, V. (b) "Person convicted" includes persons adjudicated under juvenile proceedings. (c) "Victim" means "victim" as defined in RSA 21-M:8-b, I(a).

New Hampshire Code of Administrative Rules – Chapter He-P: Division of Public Health Services

Chap He-P NHCAR	Code Language
He-P 301.01	**Definitions.** (a) "Acceptable immunization" means the immunizations required in RSA 141-C:20-a and the doses and age requirements in He-P 301.14. (b) "Admitting official" means the principal or his designated representative, headmaster or director of the public or non-public school, state agency or child care agency. (c) "Applicant" means the person for whom application is made to either the AIDS drug assistance or the tuberculosis patient care financial assistance program, and who becomes a recipient if he or she is determined to be medically and financially eligible. (d) "Carrier" means a person or animal that harbors a specific infectious agent in the absence of discernible clinical disease and serves as a potential source of infection. (e) "Case" means any person afflicted with a communicable disease as defined in 'Case Definitions for Infectious Conditions Under Public Health Surveillance' published by the Centers for Disease Prevention and Control. Volume 46, Number RR-10, May 2, 1997. (f) "Child care agency" means "child care agency" as defined in RSA 141-C:2, IV-b. (g) "Common cup" means an open drinking vessel shared by individuals in public places without disinfection between uses. (h) "Conditional enrollment" means the temporary enrollment of a student who has documentation of at least one dose of each required vaccine and an appointment date(s) for the next scheduled dose(s). (i) "Contact" means a person who has been in association with an infected person or animal or a contaminated environment in a manner that provides an opportunity to acquire the infective agent. (j) "Date of application" means the date on which the program receives the signed application for AIDS drug assistance or for the tuberculosis patient care financial assistance. (k) "Commissioner" means "commissioner" as defined in RSA 141-C:2, IX. (l) "Department" means the department of health and human services. (m) "Documentation" means written authenticated evidence of a laboratory test result or immunization.

Chap He-P NHCAR	Code Language
	(n) "Dose of vaccine" means the amount of vaccine appropriate to develop or confer immunity as specified in the manufacturer's documentation accompanying the vaccine, also known as the package insert. (o) "Health care facility" means facilities required to be licensed pursuant to RSA 151:2, I and those facilities exempt from licensing pursuant to RSA 151:2, II. (p) "Health care provider" means any physician or other person self-employed or representing or employed by a governmental or private agency, department, institution, clinic, laboratory, hospital, health maintenance organization, pharmacist, association or other entity who assesses or diagnoses the health status of any person or who treats any reportable disease or illness. (q) "Household" means one or more adults and/or children related by marriage or living together in the same residence. (r) "Human Immunodeficiency Virus (HIV)" means "human immunodeficiency virus" as defined in RSA 141-F:2, V. (s) "Institutional setting" means any group living situation such as in a nursing home, hospital, sheltered care facility, residential treatment and rehabilitation facility, halfway house, long term care facility, and/or any group care facility. (t) "Isolation" means "isolation" as defined in RSA 141-C:2, XII. (u) "Month" means 28 days, or 4 weeks. (v) "Quarantine" means "quarantine" as defined in RSA 141-C:2, XIII. (w) "Reportable disease" means a communicable disease, as defined in RSA 141-C:2, VI, required to be reported to the commissioner pursuant to RSA 141-C:7 and He-P 301.02. (x) "Suspect case" means any patient who a health care provider has reason to believe is or might be afflicted with a reportable disease such that diagnostic procedures, treatments, regimens, or preventive and/or control measures appropriate for the reportable disease are then instituted by the physician and/or the commissioner.
He-P 301.02	**Reportable Diseases.** (a) Health care providers shall report to the department the following diseases, including suspect cases, in accordance with He-P 301.03, in the following time frames: (2) Within 72 hours following diagnosis or suspicion of diagnosis of: a. Acquired Immune Deficiency Syndrome (AIDS); o. Human Immunodeficiency Virus;

Chap He-P NHCAR	Code Language
	(b) Laboratories shall report to the department any laboratory test indicative of or highly correlated with infection of the following microorganisms in accordance with He-P 301.03(h): (2) Within 72 hours: o. Human Immunodeficiency Virus, (c) Laboratories shall report to the department within 72 hours the results of all CD4+ lymphocyte laboratory tests.
He-P 301.03	**Reporting of Communicable Diseases.** (a) Any physician or other health care provider who assesses, diagnoses, or treats a person believed by him to be a case or suspect case of a reportable disease shall immediately report the same to the department by telephone, mail or electronic transmission on forms provided by the commissioner. (b) Reports provided pursuant to (a) above shall include: (1) The full name, age, sex, race, ethnicity, address, telephone number, occupation and place of occupation of the patient; (2) The name of the disease; (3) The date of onset; (4) Diagnostic test(s) performed, specimen type(s), date(s), and result(s); (5) The name of the person reporting; and (6) Treatment information including the name and amount of the medication prescribed. (c) When no physician or other health care provider is in attendance, the person in charge of any institution, public or non-public school, child care agency, hotel, restaurant, boarding house, labor camp or other camp, vessel, workplace, hospital, dispensary, pharmacy, or charitable, penal, or other institution or place of detention in which there is a case or suspect case of a reportable disease, shall report the same immediately to the department. (d) Reports provided pursuant to (c) above shall include: (1) The full name, age, sex, race, ethnicity, address, telephone number, occupation and place of occupation of the patient; (2) The name of the disease; (3) The date of onset; and (4) The name of the person reporting. (e) Local boards of health shall report immediately to the department those cases or suspect cases of reportable diseases of which they have knowledge. (f) Reports required pursuant to (e) above shall include: (1) The full name, age, sex, race, ethnicity, address, telephone number, occupation and place of occupation of the patient;

Chap He-P NHCAR	Code Language
	(2) The name of the disease; (3) The date of onset; (4) The name of the original reporting source; and (5) The name of the person reporting. (g) The person in charge of any diagnostic laboratory testing human or animal specimens shall report immediately to the department: (1) The isolation or identification of causative agents, positive diagnostic acute immunological responses to causative agents, or any other positive diagnostic test results for any of the conditions listed in He-P 301.02(b); (2) If the laboratory test was conducted on a human specimen: a. The full name, age, sex, race, ethnicity, address, telephone number, occupation and place of occupation of the person from whom the specimen was taken; b. The date the specimen was received; c. The name of the care provider; and d. The name of the person reporting; and (3) If the laboratory test was conducted on an animal specimen: a. The full name, address and telephone number of the owner of the animal from whom the specimen was taken; and b. The species of animal from which the animal specimen originated; c. The date the specimen was received; d. The name of the veterinarian; and e. The name of the person reporting. (h) Every physician or other health care provider, or the person in charge of any hospital, institution, dispensary, public or non-public school, child care agency, hotel, restaurant, boarding house, labor camp or other camp, vessel, workplace or charitable, penal, or other institution or place of detention who shall have knowledge of the occurrence of case(s) or suspect case(s) of illness within the workplace or institution believed to have been due to consumption of food or water shall report the same immediately to the department.
He-P 301.04	**Methods of Isolation.** Hospitals and other health care institutions shall institute appropriate precautions consistent with the November 3, 2004 edition of the Center for Disease Control and Prevention (CDC) Healthcare Infection Control Practices Advisory Committee (HICPAC) Guideline for Isolation Precautions in Hospitals: Preventing Transmission of Infectious Agents in Healthcare Settings available at the CDC Website, www.cdc.gov.
He-P 301.05	**Restriction and Control Measures for Isolation and Quarantine for Specific Diseases.** (a) For acquired immune deficiency syndrome/Human Immunodeficiency Virus (AIDS/HIV) infection, and other specific infections that occur in AIDS/HIV infected patients, hospitals and other institutional settings shall

Chap He-P NHCAR	Code Language
	observe precautions for patients as addressed in He-P 301.04.
He-P 305.01	**Definitions.** (a) "Anatomical parts" mean "anatomical parts" as defined in RSA 291-A.I.V. (b) "Autologous donor" means an individual who provides a blood product or anatomical part for self-use. (c) "Blood transfusion centers" mean those facilities referenced in RSA 141-F:5, I which receive for distribution or use, donated whole blood or blood components. (d) "Blood components" mean whole blood constituents or derivatives. (e) "Clinical laboratory improvement amendments of 1988 (CLIA)" means the revision of Section 353 of the Public Health Service Act (42 U.S.C. 263(a)), compliance with which certifies that laboratories may accept human specimens for the purposes of performing laboratory examinations or procedures. (f) "Confirmatory test" means a test that utilizes a different methodology than the screening test and has equal or greater specificity than the screening test. (g) "Human immunodeficiency virus" or HIV means "human immunodeficiency virus" as defined in RSA 141-F:2, V. (h) "Indeterminate" test result means that a test result does not meet the criteria for either a reactive or nonreactive test. The term includes "equivocal". (i) "Initial test" means the first HIV test performed on the specimen. (j) "Laboratory" means any building or place for the biological, microbiological, serological, chemical, immunohematological, hematological, biophysical, cytological, pathological, or other examination of materials derived from the human body. (k) "Proficiency testing" means a form of external quality control in which specimens are received from outside the laboratory, analyzed as routine specimens, and the results returned to a central location for comparison with other participating laboratories. (l) "Reactive" means that a component of the patient's specimen has formed detectable complexes with the HIV antigen or antibody supplied by the laboratory scientist during the analysis as defined by the procedure used. (m) "Researcher" means an individual who conducts HIV tests, for the

Chap He-P NHCAR	Code Language
	purpose of increasing the scientific knowledge of HIV, in accordance with RSA 141-F:5, III. (n) "Screening test" means any test which requires further testing by a different methodology in order to definitively report the presence of a condition. (o) "Specimen" means a portion of tissue or body fluid material from a human body. (p) "Test kit" means all components of a test procedure that are packaged together by the manufacturer. (q) "Tissue procurer" means a physician licensed or registered to practice in New Hampshire, or person authorized by such physician, who obtains, processes, distributes, or uses anatomical parts.
He-P 305.02	**Licensing and Certification Requirements.** The following shall apply: (a) Any laboratory, business or other organization either testing or collecting specimens shall be licensed in accordance with RSA 151; and (b) Any laboratory, business or other organization either testing or collecting specimens shall be in compliance with the Clinical Laboratory Improvement Act (CLIA) as implemented in 42CFR 493.
He-P 305.03	**Procedures for HIV Testing of Whole Blood or Blood Components by Blood Transfusion Centers and of Donors of Anatomical Parts by Tissue Procurers** (a) Pursuant to RSA 141-F:5, I, and II, any New Hampshire blood transfusion center which receives, for distribution or use, whole blood or a blood component not previously tested for the presence of an antibody to, or antigen of, HIV, or New Hampshire tissue procurer who obtains, for distribution or use, anatomical parts, the donors of which were not previously tested for the presence of an antibody to, or antigen of, HIV, shall: (1) Have the whole blood, blood component, or the donor of anatomical parts tested by the New Hampshire department of health and human services, public health laboratories or other laboratories, businesses or organizations which test human blood, tissue or other samples as part of their operations; (2) Maintain for at least 4 years a record of the number of tests performed on specimens collected; and (3) Maintain for at least 4 years a record on the number of tests described in He-P 305.02 (b) that were positive or indeterminate for each type of test performed; (b) Notwithstanding He-P 305.02 (a), HIV testing for autologous donors

Chap He-P NHCAR	Code Language
	shall be pursuant to 21 CFR 610.45.
He-P 305.04	**Procedures for Confidentially Testing HIV Specimens for Medical Research** (a) Any New Hampshire facility engaged in medical research which tests specimens for the presence of an antibody to, or antigen of, HIV pursuant to RSA 141-F:5, III shall assign a principal investigator. (b) The principal investigator shall: (1) Be a licensed physician; (2) Be responsible for ensuring that the specimen being tested is free of any personal identifiers prior to its release to a researcher; (3) Be responsible for ensuring that any personal identifiers can not be retrieved; (4) Be responsible for ensuring that an alphanumeric identifier is assigned to the specimen which shall be used in all future reference to the specimen; and (5) Be responsible for review of all completed research data and reports to ensure that no personal identifiers can be recognized by anyone reading the completed data or report.
He-P 305.05	**Procedures for Conducting HIV Tests in Correctional Facilities and the New Hampshire Hospital** Tests of individuals convicted and confined to a New Hampshire correctional facility or committed to New Hampshire hospital, pursuant to RSA 141-F:5 IV, shall be conducted in accordance with the written policies and procedures of the facility and the following: (a) The facility shall maintain a confidential record kept in accordance with RSA 141-F:8 for the collection of specimens; (b) The confidential record shall include the following: (1) The name of the person from whom the specimen was taken; (2) The name and address of the licensed physician, or person authorized by the physician who collected the specimen; and (3) The date the specimen was collected; (c) All specimens shall be tested by the New Hampshire department of health and human services, public health laboratories or other laboratories, businesses or organizations which test human blood, tissue, or other samples as part of their operations; (d) A record of the number of tests performed on specimens received shall be maintained for at least 4 years; and (e) A record of the number of tests that were positive or indeterminate shall be maintained for at least 4 years.
He-P 305.06	**Standards for Performing HIV Testing**

Chap He-P NHCAR	Code Language
	(a) This section shall apply to any New Hampshire laboratory or other such business or organization which offers, or engages in, the performance of tests to detect or quantify antibody to, or antigen of, HIV in human body fluids or tissues. (b) A laboratory or other such business or organization which offers to test, or engages in testing, to detect or quantify antibody to, or antigen of, HIV shall comply with the provisions for consent in RSA 141-F:5 and the exceptions thereunder. (c) Any purposeful violation of the requirements set forth in these rules shall be subject to enforcement under RSA 141-F:11. (d) All laboratories, public or private, or other such businesses or organizations shall use only analytic procedures that are FDA approved and in compliance with CLIA, as found in 42CFR Part 493, and which include but are not limited to the following: (1) The manufacturer's testing insert kit for all initial and confirmatory testing; and (2) The performance of external controls. (e) No laboratories or other such businesses or organizations shall report any reactive or indeterminate screening test result prior to the performance of a confirmatory test as defined by the manufacturer's testing kit package insert, except: (1) When the test is being conducted by a blood transfusion center or tissue procurer for the purpose of determining the medical acceptability of a blood, organ or tissue donor; (2) When the physician who ordered the test specifically attests that he/she needs the initial test result to provide optimal emergency diagnosis and/or emergency treatment to the individual; or (3) When the reactive or indeterminate screening test result is obtained using a FDA-approved rapid testing technology and such test result is reported as a screening test result that must be subjected to a confirmatory test. (f) Reports of tests on all HIV specimens shall be kept confidential in accordance with RSA 141-F: 7 and RSA 141-F: 8; (g) Laboratories or other such businesses or organizations shall use the following record protocol: (1) A record of the number of tests performed on specimens received shall be maintained for at least 4 years; (2) A record of the number of tests that were positive or indeterminate shall be maintained for at least 4 years; and (3) Records of tests on all HIV specimens shall be kept confidential in accordance with RSA 141-F:7 and RSA 141-F:8.