North Carolina
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,

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&

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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)**.

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.

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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

North Carolina

A Quick Reference Guide for Clinicians to North Carolina HIV Testing Laws

April 8, 2011

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

Informed Consent

- May use general informed consent; oral or written not specified (see *State Policies Relating to HIV Testing, 2011*, below, for exceptions).

Counseling

- Post-test counseling with referrals for medical and psychosocial services for persons infected with HIV required; local health departments must offer free counseling.

Provisos of Testing

- **Anonymous**
  - No specific provisions regarding anonymous testing were found.
- **Rapid**
  - See "Prenatal and Neonatal Testing" below.
- **Routine**
  - No specific provisions regarding routine testing were found.

Disclosure

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

Minor/Adolescent Testing

- Minors may consent to STD testing and treatment, HIV explicitly included.

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

This Perinatal Quick Reference Guide for clinicians is a summary of relevant North Carolina 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 North Carolina 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**
  - Attending physicians must offer HIV testing at the first prenatal visit, and testing is through the opt-out process.
- **Third trimester**
  - Attending physicians must offer HIV testing in the third trimester, and testing is through the opt-out process.

Labor & Delivery

- If a pregnant woman has not been tested for HIV at the time of labor and delivery (or if the results of such testing are unknown) the attending physician shall inform the woman that a test will be performed, explain the reason for testing, and test the woman for HIV using a rapid HIV test without consent unless testing endangers the woman; rapid test required of all labor and delivery providers as of January 1, 2009.
- Physician must give results of testing as soon as possible.

Neonatal

- If an infant is delivered to a woman whose HIV status is unknown at the time of delivery, the infant shall be tested for HIV using a rapid HIV test; rapid test required of all labor and delivery providers as of January 1, 2009.

Other

- N/A

North Carolina
State Policies Relating to HIV Testing, 2011

Table of Contents

	Policy Category	Type	Section Code(s)
RESTR.ICTIONS/ MANDATES	Restrictions on use of HIV test	Discrimination based on HIV/AIDS status prohibited	11 NCAC 12 .0324
		HIV testing prohibited for determining suitability for continued employment, public housing or use of public space or transit	NCGS §130A-148
	Mandatory testing within the criminal justice system	Potential transmission to victims, upon request of victim using the HIV-RNA Detection Test	NCGS §15A-615
	Mandatory testing outside of the criminal justice system	Occupational exposure – health care workers may request testing of source patient and the source person shall be tested without consent, unless known to be infected or is endangered by the test	10A NCAC 41A .0202(4)
		Blood, semen, tissue and organ donations	NCGS §130A-148
PRE-TESTING	Mandatory offering of HIV/AIDS information and/or testing	Occupational exposures – physician shall discuss HIV testing and test if source status is unknown	10A NCAC 41A .0202(4)
		Jail staff and prisoners must receive HIV education	10A NCAC 41A .0202(8)

		HIV testing must be offered to all patients seeking STD treatment	10A NCAC 41A .0204
		Local health departments must provide free HIV testing and counseling	10A NCAC 41A .0202(9)
		K-9 health education must include information regarding HIV/AIDS	NCGS §115C-81
		Potential donors of blood, semen, tissue or organs shall receive information about HIV	NCGS §130A-148
	Informed consent	Informed consent required – not specified written vs. verbal	NCGS §130A-148
		Exceptions to required consent	NCGS §130A-148
		Consent may be included in a general consent for treatment and laboratory testing	10A NCAC 41A .0202(16)
	Counseling requirements	Local health departments will provide free counseling with testing	10A NCAC 41A .0202(9)
		Post-test counseling with referrals for medical and psychosocial services for persons infected with HIV required	10A NCAC 41A .0202(10)
	Anonymous testing	No related laws found	
POST-TESTING	Disclosure/confidentiality	HIV reports as confidential	NCGS §130A-12
		Exceptions to confidentiality	NCGS §130A-143
		Partner notification	10A NCAC 41A .0202(13)
		Infected individuals and their attending physicians required to notify contacts	10A NCAC 41A .0202(1),(2)
		Disclosure of HIV status of source to exposed persons	10A NCAC 41A .0202(4)
		Disclosure of HIV positive students to superintendent	10A NCAC 41A .0202(3)
		Department of social services may release HIV status treatment records of juveniles if court conducts hearing, makes finding of relevancy, and orders	NCGS §7B-302 NCGS §7B-2901(b)

		release of information.	
		Notification of persons handling bodies	NCGS §130A-395 10A NCAC 41A .0212
	Reporting	Name-based reporting	NCGS §130A-135 10A NCAC 41A .0102
		Infected health care workers who perform surgical, obstetrical, or dental procedures must report selves to State Health Director	10A NCAC 41A .0207
OTHER	Testing of pregnant women and/or newborns	Pregnant women in prenatal care; general consent as a part of routine testing panel may be used – opt-out testing	10A NCAC 41A .0202(14)
		Pregnant women are to be offered HIV testing at the first prenatal visit and in the third trimester by their attending physicians	10A NCAC 41A .0202(14)
		If a pregnant woman has not been tested for HIV at the time of labor and delivery (or if the results of such testing are unknown at labor and delivery) the attending physician shall inform the woman that a test will be performed, explain the reason for testing, and test the woman for HIV using a rapid HIV test without consent (all labor and delivery providers as of January 1, 2009) unless testing endangers the woman; provider must give results as soon as possible	10A NCAC 41A .0202(14)
		If an infant is delivered to a woman whose HIV status is unknown at the time of delivery, the infant shall be tested for HIV using a rapid HIV test (rapid test required of all labor and delivery providers as of January 1, 2009)	10A NCAC 41A .0202(15)
	Testing of minors/adolescents	Minors may consent to STD services	NCGS §90-21.5
		Minors may consent to HIV testing and treatment	NCGS §90-21.5 NCGS §130A-148

	Rapid HIV testing	See "Testing of pregnant women and/or newborns" above	
	Training and education of health care providers	Health care organizations must train employees about infection control	10A NCAC 41A .0206
		Certification requirement for pathologists conducting HIV tests	NCGS §130A-148

Recommended Resources

North Carolina General Assembly
http://www.ncga.state.nc.us/homePage.pl

North Carolina Administrative Code
http://reports.oah.state.nc.us/ncac.asp

North Carolina Department of Health and Human Services
http://www.dhhs.state.nc.us/

Title 7B: Juvenile Code

NC Title 7B Code §	Code Language
§ 7B-302.	**Assessment by director; access to confidential information; notification of person making the report.** (a) When a report of abuse, neglect, or dependency is received, the director of the department of social services shall make a prompt and thorough assessment, using either a family assessment response or an investigative assessment response, in order to ascertain the facts of the case, the extent of the abuse or neglect, and the risk of harm to the juvenile, in order to determine whether protective services should be provided or the complaint filed as a petition. When the report alleges abuse, the director shall immediately, but no later than 24 hours after receipt of the report, initiate the assessment. When the report alleges neglect or dependency, the director shall initiate the assessment within 72 hours following receipt of the report. When the report alleges abandonment, the director shall immediately initiate an assessment, take appropriate steps to assume temporary custody of the juvenile, and take appropriate steps to secure an order for nonsecure custody of the juvenile. The assessment and evaluation shall include a visit to the place where the juvenile resides, except when the report alleges abuse or neglect in a child care facility as defined in Article 7 of Chapter 110 of the General Statutes. When a report alleges abuse or neglect in a child care facility as defined in Article 7 of Chapter 110 of the General Statutes, a visit to the place where the juvenile resides is not required. When the report alleges abandonment, the assessment shall include a request from the director to law enforcement officials to investigate through the North Carolina Center for Missing Persons and other national and State resources whether the juvenile is a missing child. (a1) All information received by the department of social services, including the identity of the reporter, shall be held in strictest confidence by the department, except that: (3) A district or superior court judge of this State presiding over a civil matter in which the department of social services is not a party may order the department to release confidential information, after providing the department with reasonable notice and an opportunity to be heard and then Page 2 Session Law 2009-311 SL2009-0311 determining that the information is relevant and necessary to the trial of the matter before the court and unavailable from any other source. This subdivision shall not be construed to relieve any court of its duty to conduct hearings and make findings required under relevant federal law, before ordering the release of any private medical or mental health information or records related to substance abuse or HIV status or treatment. The department of social services may surrender the requested records to the court, for in camera review, if the surrender is necessary to make the required determinations. (5) The department may disclose confidential information to a parent, guardian, custodian, or caretaker in accordance with G.S. 7B-700

	of this Subchapter.
§7b-2901	"(b) The Director of the Department of Social Services shall maintain a record of the cases of juveniles under protective custody by the Department or under placement by the court, which shall include family background information; reports of social, medical, psychiatric, or psychological information concerning a juvenile or the juvenile's family; interviews with the juvenile's family; or other information which the court finds should be protected from public inspection in the best interests of the juvenile. The records maintained pursuant to this subsection may be examined only in the following circumstances: (1) The juvenile's guardian ad litem or the juvenile, including a juvenile who has reached age 18 or been emancipated, may examine the records. (2) A district or superior court judge of this State presiding over a civil matter in which the department is not a party may order the department to release confidential information, after providing the department with reasonable notice and an opportunity to be heard and then determining that the information is relevant and necessary to the trial of the matter before the Page 12 Session Law 2009-311 SL2009-0311 court and unavailable from any other source. This subsection shall not be construed to relieve any court of its duty to conduct hearings and make findings required under relevant federal law before ordering the release of any private medical or mental health information or records related to substance abuse or HIV status or treatment. The department may surrender the requested records to the court, for in camera review, if surrender is necessary to make the required determinations. (3) A district or superior court judge of this State presiding over a criminal or delinquency matter shall conduct an in camera review before releasing to the defendant or juvenile any confidential records maintained by the department of social services, except those records the defendant or juvenile is entitled to pursuant to subdivision (1) of this subsection. (4) The department may disclose confidential information to a parent, guardian, custodian, or caretaker in accordance with G.S. 7B-700.

Title 15A: Criminal Procedure Act

NC Title 15A Code §	Code Language
§ 15A-615	**Testing of certain persons for sexually transmitted infections** (a) After a finding of probable cause pursuant to the provisions of Article 30 of Chapter 15A of the General Statutes or indictment for an offense that involves nonconsensual vaginal, anal, or oral intercourse, an offense that involves vaginal, anal, or oral intercourse with a child 12 years old or less, or an offense under G.S. 14-202.1 that involves vaginal, anal, or oral intercourse with a child less than 16 years old, the victim or the parent, guardian, or guardian ad litem of a minor victim may request that a defendant be tested for the following sexually transmitted infections: (1) Chlamydia; (2) Gonorrhea; (3) Hepatitis B; (3a) Herpes; (4) HIV; and (5) Syphilis. In the case of herpes, the defendant, pursuant to the provisions of this section, shall be examined for oral and genital herpetic lesions and, if a suggestive but nondiagnostic lesion is present, a culture for herpes shall be performed. (b) Upon a request under subsection (a) of this section, the district attorney shall petition the court on behalf of the victim for an order requiring the defendant to be tested. Upon finding that there is probable cause to believe that the alleged sexual contact involved in the offense would pose a significant risk of transmission of a sexually transmitted infection listed in subsection (a) of this section, the court shall order the defendant to submit to testing for these infections. A defendant ordered to be tested under this section shall be tested not later than 48 hours after the date of the court order. A test for HIV ordered pursuant to this section shall use the HIV-RNA Detection Test for determining HIV infection. (c) If the defendant is in the custody of the Department of Correction, the defendant shall be tested by the Department of Correction. If the defendant is not in the custody of the Department of Correction, the defendant shall be tested by the local health department. The Department of Correction shall inform the local health director of all test results. The local health director shall ensure that the victim is informed of the results of the tests and counseled appropriately. The agency conducting the tests shall inform the defendant of the results of the tests and ensure that the defendant is counseled appropriately. The results of the tests shall not be admissible as evidence in any criminal proceeding.

Title 90: Medicine and Allied Occupations

NC Title 90 Code §	Code Language
§ 90-21.5	**Minor's consent sufficient for certain medical health services.** (a) Any minor may give effective consent to a physician licensed to practice medicine in North Carolina for medical health services for the prevention, diagnosis and treatment of (i) venereal disease and other diseases reportable under G.S. 130A-135, (ii) pregnancy, (iii) abuse of controlled substances or alcohol, and (iv) emotional disturbance. This section does not authorize the inducing of an abortion, performance of a sterilization operation, or admission to a 24-hour facility licensed under Article 2 of Chapter 122C of the General Statutes except as provided in G.S. 122C-222. This section does not prohibit the admission of a minor to a treatment facility upon his own written application in an emergency situation as authorized by G.S. 122C-222. (b) Any minor who is emancipated may consent to any medical treatment, dental and health services for himself or for his child. (1971, c. 35; 1977, c. 582, s. 2; 1983, c. 302, s. 2; 1985, c. 589, s. 31; 1985 (Reg. Sess., 1986), c. 863, s. 4.)

Title 115C: Elementary and Secondary Education

NC Title 115C Code §	Code Language
§ 115C-81	**Basic Education Program** (text omitted) (e) Repealed by Session Laws 1995, c. 534, s. 2. (e1) School Health Education Program to Be Developed and Administered. (1) A comprehensive school health education program shall be developed and taught to pupils of the public schools of this State from kindergarten through ninth grade. This program includes age-appropriate instruction in the following subject areas, regardless of whether this instruction is described as, or incorporated into a description of, "family life education", "family health education", "health education", "family living", "health", "healthful living curriculum", or "self-esteem": a. Mental and emotional health; b. Drug and alcohol abuse prevention; c. Nutrition; d. Dental health; e. Environmental health; f. Family living; g. Consumer health; h. Disease control; i. Growth and development; j. First aid and emergency care, including the teaching of cardiopulmonary resuscitation (CPR) and the Heimlich maneuver by using hands-on training with mannequins so that students become proficient in order to pass a test approved by the American Heart Association, or American Red Cross; k. Preventing sexually transmitted diseases, including HIV/AIDS, and other communicable diseases; l. Abstinence until marriage education; and m. Bicycle safety. "As used in this subsection, "HIVIDS" means Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome." (2) The State Board of Education shall supervise the development and operation of a statewide comprehensive school health education program including curriculum development, in-service training provision and promotion of collegiate training, learning material review, and assessment and evaluation of local programs in the same manner as for other programs. The State Board of Education shall adopt objectives for the instruction of the subject areas listed in subdivision (1) of this subsection that are appropriate for each grade level. In addition, the State Board shall approve textbooks and other materials incorporating these objectives that local school administrative units may purchase with State funds. The State Board of Education, through the Department of Public Instruction, shall, on a regular basis, review materials related to these objectives, and distribute these reviews to local school administrative

NC Title 115C Code §	Code Language
	units for their information. (3) The State Board of Education shall develop objectives for instruction in the prevention of sexually transmitted diseases,including HIV/AIDS, that include emphasis on the importance of parental involvement, abstinence from sex until marriage, and avoiding intravenous drug use. Any program developed under this subdivision shall present techniques and strategies to deal with peer pressure and to offer positive reinforcement and shall teach reasons, skills, and strategies for remaining or becoming abstinent from sexual activity; for appropriate grade levels and classes, shall teach that abstinence from sexual activity until marriage is the only certain means of avoiding out-of-wedlock pregnancy, sexually transmitted diseases when transmitted through sexual contact, and other associated health and emotional problems, and that a mutually faithful monogamous heterosexual relationship in the context of marriage is the best lifelong means of avoiding diseases transmitted by sexual contact, including HIV/AIDS, shall teach how alcohol and drug use lower inhibitions, which may lead to risky sexual behavior,and shall teach the positive benefits of abstinence until marriage and the risks of premarital sexual activity. (4) The State Board of Education shall evaluate abstinence until marriage curricula and their learning materials and shall develop and maintain a recommended list of one or more approved abstinence until marriage curricula. The State Board may develop an abstinence until marriage program to include on the recommended list. The State Board of Education shall not select or develop a program for inclusion on the recommended list that does not include the positive benefits of abstinence until marriage and the risks of premarital sexual activity as the primary focus. The State Board shall include on the recommended list only programs that include, in appropriate grades and classes, instruction that: a. Teaches that abstinence from sexual activity outside of marriage is the expected standard for all school-age children; b. Presents techniques and strategies to deal with peer pressure and offering positive reinforcement; c. Presents reasons, skills, and strategies for remaining or becoming abstinent from sexual activity; d. Teaches that abstinence from sexual activity is the only certain means of avoiding out-of-wedlock pregnancy, sexually transmitted diseases when transmitted through sexual contact, including HIV/AIDS, and other associated health and emotional problems; e. Teaches that a mutually faithful monogamous heterosexual relationship in the context of marriage is the best lifelong means of avoiding sexually transmitted diseases, including HIV/AIDS; f. Teaches the positive benefits of abstinence until marriage and the risks of premarital sexual activity; g. Provides opportunities that allow for interaction between the parent or legal guardian and the student; and

NC Title 115C Code §	Code Language
	h. Provides factually accurate biological or pathological information that is related to the human reproductive system. (5) The State Board of Education shall make available to all local school administrative units for review by the parents and legal guardians of students enrolled at that unit any State-developed objectives for instruction, any approved textbooks, the list of reviewed materials, and any other State-developed or approved materials that pertain to or are intended to impart information or promote discussion or understanding in regard to the prevention of sexually transmitted diseases, including HIV/AIDS,to the avoidance of out-of-wedlock pregnancy, or to the abstinence until marriage curriculum. The review period shall extend for at least 60 days before use. (6) Each local school administrative unit shall provide a comprehensive school health education program that meets all the requirements of this subsection and all the objectives established by the State Board. Each local board of education may expand on the subject areas to be included in the program and on the instructional objectives to be met. This expanded program may include a comprehensive sex education program for that local school administrative unit only if all of the following requirements are satisfied: a. Before a comprehensive sex education program is adopted, the local board of education shall conduct a public hearing, after adequately notifying the public of the hearing. b. For at least 30 days before this public hearing and during this public hearing, the objectives for this proposed program and all instructional materials shall be made available for review. c. For at least 30 days after the public hearing, the objectives for the program and all instructional materials shall remain available for review by parents and legal guardians of students in that local school administrative unit. (7) Each school year, before students may participate in any portion of (i) a program that pertains to or is intended to impart information or promote discussion or understanding in regard to the prevention of sexually transmitted diseases, including HIV/AIDS, or to the avoidance of out-of-wedlock pregnancy, (ii) an abstinence until marriage program, or (iii) a comprehensive sex education program, whether developed by the State or by the local board of education, the parents and legal guardians of those students shall be given an opportunity to review the objectives and materials. Local boards of education shall adopt policies to provide opportunities either for parents and legal guardians to consent or for parents and legal guardians to withhold their consent to the students' participation in any or all of these programs. (8) Students may receive information about where to obtain contraceptives and abortion referral services only in accordance with a local board's policy regarding parental consent. Any instruction concerning the use of contraceptives or prophylactics shall provide accurate statistical

NC Title 115C Code §	Code Language
	information on their effectiveness and failure rates for preventing pregnancy and sexually transmitted diseases, including HIV/AIDS, in actual use among adolescent populations and shall explain clearly the difference between risk reduction and risk elimination through abstinence. The Department of Health and Human Services shall provide the most current available information at the beginning of each school year. (9) Contraceptives, including condoms and other devices, shall not be made available or distributed on school property. (10) School health coordinators may be employed to assist in the instruction of any portion of the comprehensive school health education program. Where feasible, a school health coordinator should serve more than one local school administrative unit. Each person initially employed as a State-funded school health coordinator after June 30, 1987, shall have a degree in health education. (text omitted)

Title 130A: Public Health

NC Title 130A Code §	Code Language
§ 130A-12	**Confidentiality of records** All records containing privileged patient medical information or information protected under 45 C.F.R. Parts 160 and 164 that are in the possession of the Department or local health departments shall be confidential and shall not be public records pursuant to G.S. 132-1. Information contained in the records may be disclosed only when disclosure is authorized or required by State or federal law. Notwithstanding G.S. 8-53 or G.S. 130A-143, the information contained in the records may be disclosed for purposes of treatment, payment, or health care operations. For purposes of this section, the terms "treatment," "payment," and "health care operations" have the meanings given those terms in 45 C.F.R. § 164.501.
§ 130A-135	**Physicians to report** A physician licensed to practice medicine who has reason to suspect that a person about whom the physician has been consulted professionally has a communicable disease or communicable condition declared by the Commission to be reported, shall report information required by the Commission to the local health director of the county or district in which the physician is consulted. The Commission shall declare confirmed HIV infection to be a reportable communicable condition.
§ 130A-136	**School principals and child care operators to report.** A principal of a school and an operator of a child care facility, as defined in G.S. 110-86(3), who has reason to suspect that a person within the school or child care facility has a communicable disease or communicable condition declared by the Commission to be reported, shall report information required by the Commission to the local health director of the county or district in which the school or facility is located.
§ 130A-137	**Medical facilities may report.** A medical facility, in which there is a patient reasonably suspected of having a communicable disease or condition declared by the Commission to be reported, may report information specified by the Commission to the local health director of the county or district in which the facility is located.
§ 130A-139	**Persons in charge of laboratories to report.** A person in charge of a laboratory providing diagnostic service in this State shall report information required by the Commission to a public health agency specified by the Commission when the laboratory makes any of the following findings: (1) Sputa, gastric contents, or other specimens which are smear

NC Title 130A Code §	Code Language
	positive for acid fast bacilli or culture positive for Mycobacterium tuberculosis; (2) Urethral smears positive for Gram-negative intracellular diplococci or any culture positive for Neisseria gonorrhoeae; (3) Positive serological tests for syphilis or positive darkfield examination; (4) Any other positive test indicative of a communicable disease or communicable condition for which laboratory reporting is required by the Commission.
§ 130A-140	**Local health directors to report.** A local health director shall report to the Department all cases of diseases or conditions or laboratory findings of residents of the jurisdiction of the local health department which are reported to the local health director pursuant to this Article. A local health director shall report all other cases and laboratory findings reported pursuant to this Article to the local health director of the county, district, or authority where the person with the reportable disease or condition or laboratory finding resides.
§ 130A-143	**Confidentiality of records** All information and records, whether publicly or privately maintained, that identify a person who has AIDS virus infection or who has or may have a disease or condition required to be reported pursuant to the provisions of this Article shall be strictly confidential. This information shall not be released or made public except under the following circumstances: (1) Release is made of specific medical or epidemiological information for statistical purposes in a way that no person can be identified; (2) Release is made of all or part of the medical record with the written consent of the person or persons identified or their guardian; (3) Release is made to health care personnel providing medical care to the patient; (4) Release is necessary to protect the public health and is made as provided by the Commission in its rules regarding control measures for communicable diseases and conditions; (5) Release is made pursuant to other provisions of this Article; (6) Release is made pursuant to subpoena or court order. Upon request of the person identified in the record, the record shall be reviewed in camera. In the trial, the trial judge may, during the taking of testimony concerning such information, exclude from the courtroom all persons except the officers of the court, the parties and those engaged in the trial of the case;

NC Title 130A Code §	Code Language
	(7) Release is made by the Department or a local health department to a court or a law enforcement official for the purpose of enforcing this Article or Article 22 of this Chapter, or investigating a terrorist incident using nuclear, biological, or chemical agents. A law enforcement official who receives the information shall not disclose it further, except (i) when necessary to enforce this Article or Article 22 of this Chapter, or when necessary to conduct an investigation of a terrorist incident using nuclear, biological, or chemical agents, or (ii) when the Department or a local health department seeks the assistance of the law enforcement official in preventing or controlling the spread of the disease or condition and expressly authorizes the disclosure as necessary for that purpose; (8) Release is made by the Department or a local health department to another federal, state or local public health agency for the purpose of preventing or controlling the spread of a communicable disease or communicable condition; (9) Release is made by the Department for bona fide research purposes. The Commission shall adopt rules providing for the use of the information for research purposes; (10) Release is made pursuant to G.S. 130A-144(b); or (11) Release is made pursuant to any other provisions of law that specifically authorize or require the release of information or records related to AIDS.
§ 130A-148	**Laboratory tests for AIDS virus infection** (a) For the protection of the public health, the Commission shall adopt rules establishing standards for the certification of laboratories to perform tests for Acquired Immune Deficiency Syndrome (AIDS) virus infection. The rules shall address, but not be limited to, proficiency testing, record maintenance, adequate staffing and confirmatory testing. Tests for AIDS virus infection shall be performed only by laboratories certified pursuant to this subsection and only on specimens submitted by a physician licensed to practice medicine. This subsection shall not apply to testing performed solely for research purposes under the approval of an institutional review board. (b) Prior to obtaining consent for donation of blood, semen, tissue or organs, a facility or institution seeking to obtain blood, tissue, semen or organs for transfusion, implantation, transplantation or administration shall provide the potential donor with information about AIDS virus transmission, and information about who should not donate. (c) No blood or semen may be transfused or administered when blood from the donor has not been tested or has tested positive for AIDS virus infection by a standard laboratory test.

NC Title 130A Code §	Code Language
	(d) No tissue or organs may be transplanted or implanted when blood from the donor has not been tested or has tested positive for AIDS virus infection by a standard laboratory test unless consent is obtained from the recipient, or from the recipient's guardian or a responsible adult relative of the recipient if the recipient is not competent to give such consent. (e) Any facility or institution that obtains or tranfuses, implants, transplants, or administers blood, tissue, semen, or organs shall be immune from civil or criminal liability that otherwise might be incurred or imposed for transmission of AIDS virus infection if the provisions specified in subsections (b), (c), and (d) of this section have been complied with. (f) Specimens may be tested for AIDS virus infection for research or epidemiologic purposes without consent of the person from whom the specimen is obtained if all personal identifying information is removed from the specimen prior to testing. (g) Persons tested for AIDS virus infection shall be notified of test results and counseled appropriately. This subsection shall not apply to tests performed by or for entities governed by Article 39 of Chapter 58 of the General Statutes, the Insurance Information and Privacy Protection Act, provided that said entities comply with the notice requirements thereof. (h) The Commission may authorize or require laboratory tests for AIDS virus infection when necessary to protect the public health. A test for AIDS virus infection may also be performed upon any person solely by order of a physician licensed to practice medicine in North Carolina who is rendering medical services to that person when, in the reasonable medical judgment of the physician, the test is necessary for the appropriate treatment of the person; however, the person shall be informed that a test for AIDS virus infection is to be conducted, and shall be given clear opportunity to refuse to submit to the test prior to it being conducted, and further if informed consent is not obtained, the test may not be performed. A physician may order a test for AIDS virus infection without the informed consent of the person tested if the person is incapable of providing or incompetent to provide such consent, others authorized to give consent for the person are not available, and testing is necessary for appropriate diagnosis or care of the person. An unemancipated minor may be tested for AIDS virus infection without the consent of the parent or legal guardian of the minor when the parent or guardian has refused to consent to such testing and there is reasonable suspicion that the minor has AIDS virus or HIV infection or that the child has been sexually abused. (i) Except as provided in this section, no test for AIDS virus infection shall be required, performed or used to determine suitability for continued employment, housing or public services, or for the use of places of public

NC Title 130A Code §	Code Language
	accommodation as defined in G.S. 168A-3(8), or public transportation. Further it shall be unlawful to discriminate against any person having AIDS virus or HIV infection on account of that infection in determining suitability for continued employment, housing, or public services, or for the use of places of public accommodation, as defined in G.S. 168A-3(8), or public transportation. Any person aggrieved by an act or discriminatory practice prohibited by this subsection relating to housing shall be entitled to institute a civil action pursuant to G.S. 41A-7 of the State Fair Housing Act. Any person aggrieved by an act or discriminatory practice prohibited by this subsection other than one relating to housing may bring a civil action to enforce rights granted or protected by this subsection. The action shall be commenced in superior court in the county where the alleged discriminatory practice or prohibited conduct occurred or where the plaintiff or defendant resides. Such action shall be tried to the court without a jury. Any relief granted by the court shall be limited to declaratory and injunctive relief, including orders to hire or reinstate an aggrieved person or admit such person to a labor organization. In a civil action brought to enforce provisions of this subsection relating to employment, the court may award back pay. Any such back pay liability shall not accrue from a date more than two years prior to the filing of an action under this subsection. Interim earnings or amounts earnable with reasonable diligence by the aggrieved person shall operate to reduce the back pay otherwise allowable. In any civil action brought under this subsection, the court, in its discretion, may award reasonable attorney's fees to the substantially prevailing party as a part of costs. A civil action brought pursuant to this subsection shall be commenced within 180 days after the date on which the aggrieved person became aware or, with reasonable diligence, should have become aware of the alleged discriminatory practice or prohibited conduct. Nothing in this section shall be construed so as to prohibit an employer from: (1) Requiring a test for AIDS virus infection for job applicants in preemployment medical examinations required by the employer; (2) Denying employment to a job applicant based solely on a confirmed positive test for AIDS virus infection; (3) Including a test for AIDS virus infection performed in the course of an annual medical examination routinely required of all employees by the employer; or (4) Taking the appropriate employment action, including reassignment or termination of employment, if the continuation by the employee who has AIDS virus or HIV infection of his work tasks would pose a significant risk to the health of the employee, coworkers, or the public, or if the employee is unable to perform the normally assigned duties of the job.

NC Title 130A Code §	Code Language
	(j) It shall not be unlawful for a licensed health care provider or facility to: (1) Treat a person who has AIDS virus or HIV infection differently from persons who do not have that infection when such treatment is appropriate to protect the health care provider or employees of the provider or employees of the facility while providing appropriate care for the person who has the AIDS virus or HIV infection; or (2) Refer a person who has AIDS virus or HIV infection to another licensed health care provider or facility when such referral is for the purpose of providing more appropriate treatment for the person with AIDS virus or HIV infection.
§ 130A-395	**Handling and transportation of bodies** (a) It shall be the duty of the physician licensed to practice medicine under Chapter 90 attending any person who dies and is known to have smallpox, plague, HIV infection, hepatitis B infection, rabies, or Jakob-Creutzfeldt to provide written notification to all individuals handling the body of the proper precautions to prevent infection. This written notification shall be provided to funeral service personnel at the time the body is removed from any hospital, nursing home, or other health care facility. When the patient dies in a location other than a health care facility, the attending physician shall notify the funeral service personnel verbally of the precautions required in subsections (b) and (c) as soon as the physician becomes aware of the death. (b) The body of a person who died from smallpox or plague shall not be embalmed. The body shall be enclosed in a strong, tightly sealed outer case which will prevent leakage or escape of odors as soon as possible after death and before the body is removed from the hospital room, home, building, or other premises where the death occurred. This case shall not be reopened except with the consent of the local health director. (c) Persons handling bodies of persons who died and were known to have HIV infection, hepatitis B infection, Jakob-Creutzfeldt, or rabies shall be provided written notification to observe blood and body fluid precautions.

North Carolina Administrative Code – Title 10A: Health and Human Services

Title 10A NCAC	Code Language
10A NCAC 26B .0203	**PERSONS WHO MAY SIGN CONSENT FOR RELEASE** The following persons may sign a consent for release of confidential information: (3) a minor client under the following conditions: (a) pursuant to G.S. 90-21.5 when seeking services for veneral disease and other diseases reportable under G.S. 130A-135, pregnancy, abuse of controlled substances or alcohol, or emotional disturbances;
10A NCAC 41A .0101	**REPORTABLE DISEASES AND CONDITIONS** (a) The following named diseases and conditions are declared to be dangerous to the public health and are hereby made reportable within the time period specified after the disease or condition is reasonably suspected to exist: (1) acquired immune deficiency syndrome (AIDS) -24 hours; (28) human immunodeficiency virus (HIV) infection confirmed -24 hours; (b) For purposes of reporting confirmed human immunodeficiency virus (HIV) infection is defined as a positive virus culture, repeatedly reactive EIA antibody test confirmed by western blot or indirect immunofluorescent antibody test, positive nucleic acid detection (NAT) test, or other confirmed testing method approved by the Director of the State Public Health Laboratory conducted on or after February 1, 1990. In selecting additional tests for approval, the Director of the State Public Health Laboratory shall consider whether such tests have been approved by the federal Food and Drug Administration, recommended by the federal Centers for Disease Control and Prevention, and endorsed by the Association of Public Health Laboratories. (c) In addition to the laboratory reports for Mycobacterium tuberculosis, Neisseria gonorrhoeae, and syphilis specified in G.S. 130A-139, laboratories shall report: (S) Human Immunodeficiency Virus, the cause of AIDS.
10A NCAC 41A .0102	**METHOD OF REPORTING** (a) When a report of a disease or condition is required to be made pursuant to G.S. 130A-135 through 139 and 10A NCAC 41A .0101, with the exception of laboratories, which shall proceed as in Subparagraph (d), the report shall be made to the local health director as follows: (1) For diseases and conditions required to be reported within 24

Title 10A NCAC	Code Language
	hours, the initial report shall be made by telephone, and the report required by Subparagraph (2) of this Paragraph shall be made within seven days. (2) In addition to the requirements of Subparagraph (1) of this Paragraph, the report shall be made on the communicable disease report card or in an electronic format provided by the Division of Public Health and shall include the name and address of the patient, the name and address of the parent or guardian if the patient is a minor, and epidemiologic information. (3) In addition to the requirements of Subparagraphs (1) and (2) of this Paragraph, forms or electronic formats provided by the Division of Public Health for collection of information necessary for disease control and documentation of clinical and epidemiologic information about the cases shall be completed and submitted for the following reportable diseases and conditions identified in 10A NCAC 41A .0101(a):acquired immune deficiency syndrome (AIDS); brucellosis; cholera; cryptosporidiosis; cyclosporiasis; E. coli 0157:H7 infection; ehrlichiosis; Haemophilus influenzae, invasive disease; Hemolytic-uremic syndrome/thrombotic thrombocytopenic purpura; hepatitis A; hepatitis B; hepatitis B carriage; hepatitis C; human immunodeficiency virus (HIV) confirmed; legionellosis; leptospirosis; Lyme disease; malaria; measles (rubeola); meningitis, pneumococcal; meningococcal disease; mumps; paralytic poliomyelitis; psittacosis; Rocky Mountain spotted fever; rubella; rubella congenital syndrome; tetanus; toxic shock syndrome; trichinosis; tuberculosis; tularemia; typhoid; typhoid carriage (Salmonella typhi); vibrio infection (other than cholera); and whooping cough. (4) Communicable disease report cards, surveillance forms, and electronic formats are available from the Division of Public Health, 1915 Mail Service Center, Raleigh, North Carolina 27699-1915, and from local health departments. (b) Notwithstanding the time frames established in 10A NCAC 41A .0101, a restaurant or other food or drink establishment shall report all outbreaks or suspected outbreaks of foodborne illness in its customers or employees and all suspected cases of foodborne disease or foodborne condition in food-handlers at the establishment by telephone to the local health department within 24 hours in accordance with Subparagraph (a)(1) of this Rule. However, the establishment is not required to submit a report card or surveillance form pursuant to Subparagraphs (a)(2) and (a)(4) of this Rule. (c) For the purposes of reporting by restaurants and other food or drink establishments pursuant to G.S.130A-138, the following diseases and conditions listed in 10A NCAC 41A .0101(a) shall be reported: anthrax; botulism; brucellosis; campylobacter infection; cholera; cryptosporidiosis; cyclosporiasis; E. coli 0157:H7 infection; hepatitis A; salmonellosis; shigellosis; streptococcal infection, Group A, invasive disease; trichinosis; tularemia; typhoid; typhoid carriage (Salmonella typhi); and vibrio infection (other than cholera).

Title 10A NCAC	Code Language
	(d) Laboratories required to report test results pursuant to G.S. 130A-139 and 10A NCAC 41A .0101(c) shall report as follows: (1) The results of the specified tests for syphilis, chlamydia and gonorrhea shall be reported to the local health department by the first and fifteenth of each month. Reports of the results of the specified tests for gonorrhea, chlamydia and syphilis shall include the specimen collection date, the patient's age, race, and sex, and the submitting physician's name, address, and telephone numbers. (2) Positive darkfield examinations for syphilis, all reactive prenatal and delivery STS titers, all reactive STS titers on infants less than one year old and STS titers of 1:8 and above shall be reported within 24 hours by telephone to the HIV/STD Prevention and Care Branch at (919) 733-7301, or the HIV/STD Prevention and Care Branch Regional Office where the laboratory is located. (3) With the exception of positive laboratory tests for human immunodeficiency virus, positive laboratory tests as defined in G.S. 130A-139(1) and 10A NCAC 41A .0101(c) shall be reported to the Division of Public Health electronically, by mail, by secure telefax or by telephone within the time periods specified for each reportable disease or condition in 10A NCAC 41A .0101(a). Confirmed positive laboratory tests for human immunodeficiency virus as defined in 10A NCAC 41A .0101(b) and for CD4 results defined in 10A NCAC 41A .0101(c)(4) shall be reported to the HIV/STD Prevention and Care Branch within 24 hours of obtaining reportable test results. Reports shall include as much of the following information as the laboratory possesses: the specific name of the test performed; the source of the specimen; the collection date(s); the patient's name, age, race, sex, address, and county; and the submitting physician's name, address, and telephone number.
10A NCAC 41A .0103	**DUTIES OF LOCAL HEALTH DIRECTOR: REPORT COMMUNICABLE DISEASES** (a) Upon receipt of a report of a communicable disease or condition pursuant to 10A NCAC 41A .0101, the local health director shall: (1) immediately investigate the circumstances surrounding the occurrence of the disease or condition to determine the authenticity of the report and the identity of all persons for whom control measures are required. This investigation shall include the collection and submission for laboratory examination of specimens necessary to assist in the diagnosis and indicate the duration of control measures; (2) determine what control measures have been given and ensure that proper control measures as provided in 10A NCAC 41A .0201 have been given and are being complied with; (3) forward the report as follows: (A) The local health director shall forward all authenticated reports made pursuant to G.S. 130A-135 to 137 of syphilis, chancroid, granuloma inguinale, and lymphogranuloma venereum within seven days to the regional office of the Division of Public Health. In addition, the local health director shall telephone reports of all cases of primary,

Title 10A NCAC	Code Language
	secondary, and early latent (under one year's duration) syphilis to the regional office of the HIV/STD Prevention and Care Branch within 24 hours of diagnosis at the health department or report by a physician. (B) The local health director shall telephone all laboratory reports of reactive syphilis serologies to the regional office of the Division of Public Health within 24 hours of receipt if the person tested is pregnant. This shall also be done for all other persons tested unless the dilution is less than 1:8 and the person is known to be over 25 years of age or has been previously treated. In addition, the written reports shall be sent to the regional office of the Division of Public Health within seven days. (C) Except as provided in (a)(3)(A) and (B) of this Rule, a local health director who receives a report pursuant to 10A NCAC 41A .0102 regarding a person residing in that jurisdiction shall forward the authenticated report to the Division of Public Health within seven days. (D) Except as provided in (a)(3)(A) and (B) of this Rule, a local health director who receives a report pursuant to 10A NCAC 41A .0102 regarding a person who resides in another jurisdiction in North Carolina shall forward the report to the local health director of that jurisdiction within 24 hours. A duplicate report card marked "copy" shall be forwarded to the Division of Epidemiology within seven days. (E) A local health director who receives a report pursuant to 10A NCAC 41A .0102 regarding a person who resided outside of North Carolina at the time of onset of the illness shall forward the report to the Division of Public Health within 24 hours. (b) If an outbreak exists, the local health director shall submit to the Division of Public Health within 30 days a written report of the investigation, its findings, and the actions taken to control the outbreak and prevent a recurrence. (c) Whenever an outbreak of a disease or condition occurs which is not required to be reported by 10A NCAC 41A .0101 but which represents a significant threat to the public health, the local health director shall give appropriate control measures consistent with 10A NCAC 41A .0200, and inform the Division of Public Health of the circumstances of the outbreak within seven days.
10A NCAC 41A .0202	**CONTROL MEASURES – HIV** The following are the control measures for the Acquired Immune Deficiency Syndrome (AIDS) and Human Immunodeficiency Virus (HIV) infection: (1) Infected persons shall: (a) refrain from sexual intercourse unless condoms are used; exercise caution when using condoms due to possible condom failure; (b) not share needles or syringes, or any other drug-related equipment, paraphernalia, or works that may be contaminated with blood through previous use; (c) not donate or sell blood, plasma, platelets, other blood products,

Title 10A NCAC	Code Language
	semen, ova, tissues, organs, or breast milk; (d) have a skin test for tuberculosis; (e) notify future sexual intercourse partners of the infection; (f) if the time of initial infection is known, notify persons who have been sexual intercourse and needle partners since the date of infection; and, (g) if the date of initial infection is unknown, notify persons who have been sexual intercourse and needle partners for the previous year. (2) The attending physician shall: (a) give the control measures in Item (1) of this Rule to infected patients, in accordance with 10A NCAC 41A .0210; (b) If the attending physician knows the identity of the spouse of an HIV-infected patient and has not, with the consent of the infected patient, notified and counseled the spouse, the physician shall list the spouse on a form provided by the Division of Public Health and shall mail the form to the Division. The Division shall undertake to counsel the spouse. the attending physician's responsibility to notify exposed and potentially exposed persons is satisfied by fulfilling the requirements of Sub-Items (2)(a) and (b) of this Rule; (c) advise infected persons concerning clean-up of blood and other body fluids; (d) advise infected persons concerning the risk of perinatal transmission and transmission by breastfeeding. (3) The attending physician of a child who is infected with HIV and who may pose a significant risk of transmission in the school or day care setting because of open, oozing wounds or because of behavioral abnormalities such as biting shall notify the local health director. The local health director shall consult with the attending physician and investigate the following circumstances: (a) If the child is in school or scheduled for admission and the local health director determines that there may be a significant risk of transmission, the local health director shall consult with an interdisciplinary committee, which shall include school personnel, a medical expert, and the child's parent or guardian to assist in the investigation and determination of risk. The local health director shall notify the superintendent or private school director of the need to appoint such an interdisciplinary committee. (i) If the superintendent or private school director establishes such a committee within three days of notification, the local health director shall consult with this committee. (ii) If the superintendent or private school director does not establish such a committee within three days of notification, the local health director shall establish such a committee. (b) If the child is in school or scheduled for admission and the local health director determines, after consultation with the committee, that a significant risk of transmission exists, the local health director shall: (i) notify the parents; (ii) notify the committee;

Title 10A NCAC	Code Language
	(iii) assist the committee in determining whether an adjustment can be made to the student's school program to eliminate significant risks of transmission; (iv) determine if an alternative educational setting is necessary to protect the public health; (v) instruct the superintendent or private school director concerning protective measures to be implemented in the alternative educational setting developed by school personnel; and (vi) consult with the superintendent or private school director to determine which school personnel directly involved with the child need to be notified of the HIV infection in order to prevent transmission and ensure that these persons are instructed regarding the necessity for protecting confidentiality. (c) If the child is in day care and the local health director determines that there is a significant risk of transmission, the local health director shall notify the parents that the child must be placed in an alternate child care setting that eliminates the significant risk of transmission. (4) When health care workers or other persons have a needlestick or nonsexual non-intact skin or mucous membrane exposure to blood or body fluids that, if the source were infected with HIV, would pose a significant risk of HIV transmission, the following shall apply: (a) When the source person is known: (i) The attending physician or occupational health care provider responsible for the exposed person, if other than the attending physician of the person whose blood or body fluids is the source of the exposure, shall notify the attending physician of the source that an exposure has occurred. The attending physician of the source person shall discuss the exposure with the source and, unless the source is already known to be infected, shall test the source for HIV infection Without consent unless it reasonably appears that the test cannot be performed without endangering the safety of the source person or the person administering the test. If the source person cannot be tested, an existing specimen, if one exists, shall be tested. The attending physician of the exposed person shall be notified of the infection status of the source. (ii) The attending physician of the exposed person shall inform the exposed person about the infection status of the source, offer testing for HIV infection as soon as possible after exposure and at reasonable intervals up to one year to determine whether transmission occurred, and, if the source person was HIV infected, give the exposed person the control measures listed in Sub-Items (1)(a) through (c) of this Rule. The attending physician of the exposed person shall instruct the exposed person regarding the necessity for protecting confidentiality. (b) When the source person is unknown, the attending physician of the exposed persons shall inform the exposed person of the risk of transmission and offer testing for HIV infection as soon as possible after exposure and at reasonable intervals up to one year to determine whether transmission occurred. (c) A health care facility may release the name of the attending physician of a source person upon request of the attending physician of

Title 10A NCAC	Code Language
	an exposed person. (5) The attending physician shall notify the local health director when the physician, in good faith, has reasonable cause to suspect a patient infected with HIV is not following or cannot follow control measures and is thereby causing a significant risk of transmission. Any other person may notify the local health director when the person, in good faith, has reasonable cause to suspect a person infected with HIV is not following control measures and is thereby causing a significant risk of transmission. (6) When the local health director is notified pursuant to Item (5) of this Rule, of a person who is mentally ill or mentally retarded, the local health director shall confer with the attending mental health physician or mental health authority and the physician, if any, who notified the local health director to develop a plan to prevent transmission. (7) The Division of Public Health shall notify the Director of Health Services of the North Carolina Department of Correction and the prison facility administrator when any person confined in a state prison is determined to be infected with HIV. If the prison facility administrator, in consultation with the Director of Health Services, determines that a confined HIV infected person is not following or cannot follow prescribed control measures, thereby presenting a significant risk of HIV transmission, the administrator and the Director shall develop and implement jointly a plan to prevent transmission, including making recommendations to the unit housing classification committee. (8) The local health director shall ensure that the health plan for local jails include education of jail staff and prisoners about HIV, how it is transmitted, and how to avoid acquiring or transmitting this infection. (9) Local health departments shall provide counseling and testing for HIV infection at no charge to the patient. Third party payors may be billed for HIV counseling and testing when such services are provided and the patient provides written consent. (10) HIV pre-test counseling is not required. Post-test counseling for persons infected with HIV is required, must be individualized, and shall include referrals for medical and psychosocial services and control measures. (11) A local health department or the Department may release information regarding an infected person pursuant to G.S. 130A-143(3) only when the local health department or the Department has provided direct medical care to the infected person and refers the person to or consults with the health care provider to whom the information is released. (12) Notwithstanding Rule .0201(d) of this Section, a local or state health

Title 10A NCAC	Code Language
	director may require, as a part of an isolation order issued in accordance with G.S. 130A-145, compliance with a plan to assist the individual to comply with control measures. The plan shall be designed to meet the specific needs of the individual and may include one or more of the following available and appropriate services: (a) substance abuse counseling and treatment; (b) mental health counseling and treatment; and (c) education and counseling sessions about HIV, HIV transmission, and behavior change required to prevent transmission. (13) The Division of Public Health shall conduct a partner notification program to assist in the notification and counseling of partners of HIV infected persons. (14) Every pregnant woman shall be offered HIV testing by her attending physician at her first prenatal visit and in the third trimester. The attending physician shall test the pregnant woman for HIV infection, unless the pregnant woman refuses to provide informed consent pursuant to G.S. 130A-148(h). If there is no record at labor and delivery of an HIV test result during the current pregnancy for the pregnant woman, the attending physician shall inform the pregnant woman that an HIV test will be performed, explain the reasons for testing, and the woman shall be tested for HIV without consent using a rapid HIV test unless it reasonably appears that the test cannot be performed without endangering the safety of the pregnant woman or the person administering the test. If the pregnant woman cannot be tested, an existing specimen, if one exists that was collected within the last 24 hours, shall be tested using a rapid HIV test. The attending physician must provide the woman with the test results as soon as possible. However, labor and delivery providers who do not currently have the capacity to perform rapid HIV testing are not required to use a rapid HIV test until January 1, 2009. (15) If an infant is delivered by a woman with no record of the result of an HIV test conducted during the pregnancy and if the woman was not tested for HIV during labor and delivery, the fact that the mother has not been tested creates a reasonable suspicion pursuant to G.S. 130A-148(h) that the newborn has HIV infection and the infant shall be tested for HIV. An infant born in the previous 12 hours shall be tested using a rapid test. However, providers who do not currently have the capacity to perform rapid HIV testing shall not be required to use a rapid HIV test until January 1, 2009. (16) Testing for HIV may be offered as part of routine laboratory testing panels using a general consent which is obtained from the patient for treatment and routine laboratory testing, so long as the patient is notified that they are being tested for HIV and given the opportunity to refuse.
10A NCAC 41A	**CONTROL MEASURES - SEXUALLY TRANSMITTED DISEASES**

Title 10A NCAC	Code Language
.0204	(d) All persons evaluated or reasonably suspected of being infected with any sexually transmitted disease shall be tested for syphilis, encouraged to be tested confidentially for HIV, and counseled about how to reduce the risk of acquiring sexually transmitted disease, including the use of condoms.
10A NCAC 41A .0206	**INFECTION CONTROL - HEALTH CARE SETTINGS** (a) The following definitions shall apply throughout this Rule: (1) "Health care organization" means hospital; clinic; physician, dentist, podiatrist, optometrist, or chiropractic office; home health agency; nursing home; local health department; community health center; mental health agency; hospice; ambulatory surgical center; urgent care center; emergency room; or any other health care provider that provides clinical care. (2) "Invasive procedure" means entry into tissues, cavities, or organs or repair of traumatic injuries. The term includes the use of needles to puncture skin, vaginal and cesarean deliveries, surgery, and dental procedures during which bleeding occurs or the potential for bleeding exists. (e) In order to prevent transmission of HIV and hepatitis B from health care workers to patients, each health care organization that performs invasive procedures shall implement a written infection control policy. The health care organization shall ensure that health care workers in its employ or who have staff privileges are trained in the principles of infection control and the practices required by the policy; require and monitor compliance with the policy; and update the policy as needed to prevent transmission of HIV and hepatitis B from health care workers to patients. The health care organization shall designate a staff member to direct these activities. The designated staff member in each health care organization shall complete a course in infection control approved by the Department. The course shall address: (1) Epidemiologic principles of infectious disease; (2) Principles and practice of asepsis; (3) Sterilization, disinfection, and sanitation; (4) Universal blood and body fluid precautions; (5) Engineering controls to reduce the risk of sharp injuries; (6) Disposal of sharps; and (7) Techniques that reduce the risk of sharp injuries to health care workers. (f) The infection control policy required by this Rule shall address the following components that are necessary to prevent transmission of HIV and hepatitis B from infected health care workers to patients: (1) Sterilization and disinfection, including a schedule for maintenance and microbiologic monitoring of equipment; the policy shall require documentation of maintenance and monitoring; (2) Sanitation of rooms and equipment, including cleaning procedures,

Title 10A NCAC	Code Language
	agents, and schedules; (3) Accessibility of infection control devices and supplies; (4) Procedures to be followed in implementing 10A NCAC 41A .0202(4) and .0203(b)(4)when a health care provider or a patient has an exposure to blood or other body fluids of another person in a manner that poses a significant risk of transmission of HIV or hepatitis B.
10A NCAC 41A .0207	**HIV AND HEPATITIS B INFECTED HEALTH CARE WORKERS** (a) The following definitions shall apply throughout this Rule: (1) "Surgical or obstetrical procedures" means vaginal deliveries or surgical entry into tissues, cavities, or organs. The term does not include phlebotomy; administration of intramuscular, intradermal, or subcutaneous injections; needle biopsies; needle aspirations; lumbar punctures; angiographic procedures; endoscopic and bronchoscopic procedures; or placing or maintaining peripheral or central intravascular lines. (2) "Dental procedure" means any dental procedure involving manipulation, cutting, or removal of oral or perioral tissues, including tooth structure during which bleeding occurs or the potential for bleeding exists. The term does not include the brushing of teeth. (b) All health care workers who perform surgical or obstetrical procedures or dental procedures and who know themselves to be infected with HIV or hepatitis B shall notify the State Health Director. Health care workers who assist in these procedures in a manner that may result in exposure of patients to their blood and who know themselves to be infected with HIV or hepatitis B shall also notify the State Health Director. The notification shall be made in writing to the Chief, Communicable Disease Control Branch, 1902 Mail Service Center, Raleigh, NC 27699-1902.. (c) The State Health Director shall investigate the practice of any infected health care worker and the risk of transmission to patients. The investigation may include review of medical and work records and consultation with health care professionals who may have information necessary to evaluate the clinical condition or practice of the infected health care worker. The attending physician of the infected health care worker shall be consulted. The State Health Director shall protect the confidentiality of the infected health care worker and may disclose the worker's infection status only when essential to the conduct of the investigation or periodic reviews pursuant to Paragraph (h) of this Rule. When the health care worker's infection status is disclosed, the State Health Director shall give instructions regarding the requirement for protecting confidentiality. (d) If the State Health Director determines that there may be a significant risk of transmission of HIV or hepatitis B to patients, the State Health Director shall appoint an expert panel to evaluate the risk of transmission to patients, and review the practice, skills, and clinical

Title 10A NCAC	Code Language
	condition of the infected health care worker, as well as the nature of the surgical or obstetrical procedures or dental procedures performed and operative and infection control techniques used. Each expert panel shall include an infectious disease specialist, an infection control expert, a person who practices the same occupational specialty as the infected health care worker and, if the health care worker is a licensed professional, a representative of the appropriate licensure board. The panel may include other experts. The State Health Director shall consider for appointment recommendations from health care organizations and local societies of health care professionals. (e) The expert panel shall review information collected by the State Health Director and may request that the State Health Director obtain additional information as needed. The State Health Director shall not reveal to the panel the identity of the infected health care worker. The infected health care worker and the health care worker's attending physician shall be given an opportunity to present information to the panel. The panel shall make recommendations to the State Health Director that address the following: (1) Restrictions that are necessary to prevent transmission from the infected health care worker to patients; (2) Identification of patients that have been exposed to a significant risk of transmission of HIV or hepatitis B; and (3) Periodic review of the clinical condition and practice of the infected health care worker. (f) If, prior to receipt of the recommendations of the expert panel, the State Health Director determines that immediate practice restrictions are necessary to prevent an imminent threat to the public health, the State Health Director shall issue an isolation order pursuant to G.S. 130A-145. The isolation order shall require cessation or modification of some or all surgical or obstetrical procedures or dental procedures to the extent necessary to prevent an imminent threat to the public health. This isolation order shall remain in effect until an isolation order is issued pursuant to Paragraph (g) of this Rule or until the State Health Director determines the imminent threat to the public health no longer exists. (g) After consideration of the recommendations of the expert panel, the State Health Director shall issue an isolation order pursuant to G.S. 130A-145. The isolation order shall require any health care worker who is allowed to continue performing surgical or obstetrical procedures or dental procedures to, within a time period specified by the State Health Director, successfully complete a course in infection control procedures approved by the Department of Health and Human Services, General Communicable Disease Control Branch, in accordance with 10A NCAC 41A .0206(e). The isolation order shall require practice restrictions, such as cessation or modification of some or all surgical or obstetrical procedures or dental procedures, to the extent necessary to prevent a significant risk of transmission of HIV or hepatitis B to patients. The isolation order shall prohibit the performance of procedures that cannot

Title 10A NCAC	Code Language
	be modified to avoid a significant risk of transmission. If the State Health Director determines that there has been a significant risk of transmission of HIV or hepatitis B to a patient, the State Health Director shall notify the patient or assist the health care worker to notify the patient. (h) The State Health Director shall request the assistance of one or more health care professionals to obtain information needed to periodically review the clinical condition and practice of the infected health care worker who performs or assists in surgical or obstetrical procedures or dental procedures. (i) An infected health care worker who has been evaluated by the State Health Director shall notify the State Health Director prior to a change in practice involving surgical or obstetrical procedures or dental procedures. The infected health care worker shall not make the proposed change without approval from the State Health Director. If the State Health Director makes a determination in accordance with Paragraph (c) of this Rule that there is a significant risk of transmission of HIV or hepatitis B to patients, the State Health Director shall appoint an expert panel in accordance with Paragraph (d) of this Rule. Otherwise, the State Health Director shall notify the health care worker that he or she may make the proposed change in practice. (j) If practice restrictions are imposed on a licensed health care worker, a copy of the isolation order shall be provided to the appropriate licensure board. The State Health Director shall report violations of the isolation order to the appropriate licensure board. The licensure board shall report to the State Health Director any information about the infected health care worker that may be relevant to the risk of transmission of HIV or hepatitis B to patients.
10A NCAC 41A .0212	**HANDLING AND TRANSPORTATION OF BODIES** (a) It shall be the duty of the physician attending any person who dies and is known to be infected with HIV, plague, or hepatitis B or any person who dies and is known or reasonably suspected to be infected with smallpox, rabies, severe acute respiratory syndrome (SARS), or Jakob-Creutzfeldt to provide written notification to all individuals handling the body of the proper precautions to prevent infection. This written notification shall be provided to funeral service personnel at the time the body is removed from any hospital, nursing home, or other health care facility. When the patient dies in a location other than a health care facility, the attending physician shall notify the funeral service personnel verbally of the precautions required as soon as the physician becomes aware of the death. These precautions are noted in Paragraphs (b) and (c). (b) The body of any person who died and is known or reasonably suspected to be infected with smallpox or severe acute respiratory

Title 10A NCAC	Code Language
	syndrome (SARS) or any person who died and is known to be infected with plague shall not be embalmed. The body shall be enclosed in a strong, tightly sealed outer case which will prevent leakage or escape of odors as soon as possible after death and before the body is removed from the hospital room, home, building, or other premises where the death occurred. This case shall not be reopened except with the consent of the local health director. Nothing in this Paragraph shall prohibit cremation. (c) Persons handling the body of any person who died and is known to be infected with HIV or hepatitis B or any person who died and is known or reasonably suspected to be infected with Jakob-Creutzfeldt or rabies shall be provided written notification to observe blood and body fluid precautions.
10A NCAC 42D .0101	**CERTIFICATION FOR LABORATORIES CONDUCTING HIV TESTING** (a) Laboratories conducting HIV antibody testing shall be certified in accordance with this Rule. The requirements for certification are as follows: (1) All laboratories, except the State Public Health Laboratory, shall be licensed under the Clinical Laboratory Improvement Act (CLIA), accredited by the College of American Pathologists (CAP), American Association of Blood Banks (AABB), or the Joint Commission on the Accreditation of Hospitals (JCAH), certified by the Health Care Financing Administration (HCFA) for Medicare or Medicaid, or accredited by a comparable program approved by the Director, State Public Health Laboratory. (2) Laboratories shall participate in a periodic proficiency testing program operated jointly by AABB and CAP or in a comparable periodic proficiency testing program with comparable standards of acceptable performance approved by the Director, State Public Health Laboratory. Laboratories shall demonstrate an acceptable level of proficiency according to the standards of the testing program. (3) HIV antibody screening test results shall not be issued as final until all initially reactive tests have been repeated at least once, and all repeatedly reactive tests have been confirmed by the Western Blot method or a method approved by the Director, State Public Health Laboratory. Preliminary results may be released after all initially reactive tests have been repeated but before a confirmatory test is done if the results are clearly marked as preliminary. The results of both screening and confirmatory tests shall be transmitted to the ordering physician. (4) Laboratories shall perform HIV antibody tests only on specimens submitted by a physician licensed to practice medicine. (b) An application for certification shall be submitted to the Department of Human Resources listing the name and location of the laboratory requesting certification, the name of the laboratory director, and evidence that the laboratory meets the requirements listed in Paragraph (a). Laboratories will be notified in writing within 45 days of the receipt

Title 10A NCAC	Code Language
	of the application that they have been certified or, if certification has been denied, of the reasons for denial. (c) Certification must be renewed when licensing, accreditation or certification renewal is required by the program that has accredited the laboratory pursuant to Paragraph (a). If a laboratory's license, accreditation or certification from one of these programs is suspended or revoked, the laboratory director shall immediately notify the department and the laboratory's certification under this Rule shall be revoked in accordance with G.S. 130A-23. Certification may otherwise be suspended or revoked in accordance with G.S. 130A-23 for violation of this Rule or for repeatedly issuing erroneous test results. The laboratory may apply for recertification when it can provide evidence that it meets the requirements listed in Paragraph (a)-(c). (d) Appeals concerning the interpretation and enforcement of this Rule shall be made in accordance with G.S. 150B. (e) Laboratories conducting HIV antibody testing may be certified under this Rule upon the Rule's effective date. However, these laboratories are not required to be certified until July 1, 1988.

North Carolina Administrative Code – Title 11: Insurance

Title 11 NCAC	Code Language
11 NCAC 12 .0324	**HIV AND AIDS DISCRIMINATION PROHIBITED** Human Immunodeficiency Virus (HIV) infection (symptomatic and asymptomatic) and Acquired Immune Deficiency Syndrome (AIDS) must be treated as any other illness or sickness under health insurance policy provisions and policy applications. HIV and AIDS must be defined within the application if any questions are asked about HIV and AIDS.

North Carolina Administrative Code – Title 25: State Personnel

Title 25 NCAC	Code Language
25 NCAC 01N .0305	**TESTING AND EXAMINATION** Medical tests and examinations to determine the presence of HIV or HIV associated conditions are prohibited except as authorized by state and federal law or required by the rules of the Commission for Health Services (see 10A NCAC 41A, Section .0200). An employee who suspects that, having had a nonsexual blood or body fluid exposure to the HIV virus while on the job, may voluntarily elect to be tested for the HIV infection, provided that the suspected exposure poses a significant risk of transmission of HIV as defined in the rules of the Commission for Health Services. The employer will pay for the cost of test(s) for the exposed employee, providing the employee consents to the testing agency selected by the employee. Some employees may prefer to pay for their own test through a personal or family physician, or use the free testing services of a Public Health Department. An employee choosing to have the test made by someone other than the testing agency selected by the employer must bear the cost of the test himself.