

# North Dakota

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April 8, 2011

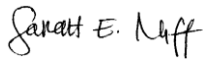
To the Reader:

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

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

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

Thank you,



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&



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

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## Definitions and Helpful Resources

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### Definitions Commonly Used Nationally

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

### Helpful Resources

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

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

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

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

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

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

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

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

# North Dakota

## 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 Dakota 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 Dakota HIV testing laws, please refer to the section of the Compendium that follows this Quick Reference Guide.

### Informed Consent

- Informed consent is required; oral or written not specified (see *State Policies Relating to HIV Testing, 2011*, below, for exceptions).

### Counseling

- No specific provisions regarding counseling were found.

### Provisos of Testing

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

### Disclosure

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

### Minor/Adolescent Testing

- Minors may consent to HIV testing

# North Dakota

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

### **A Guide to North Dakota Perinatal HIV Testing Laws for Clinicians**

April 8, 2011

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

#### **Prenatal**

- **Initial visit**
  - 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

**North Dakota  
State Policies Relating to HIV Testing, 2011**

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	<b>Policy Category</b>	<b>Type</b>	<b>Section Code(s)</b>
<b>RESTRICTIONS/ MANDATES</b>	Restrictions on use of HIV test	No related laws found	
	Mandatory testing within the criminal justice system	Any person imprisoned for 15 days or more	NDCC §23-07-07.5
		Persons charged with a sex offense upon written request of victim or by court order	NDCC §23-07.7-01
		Juveniles charged with a sex offense upon request of victim or by court order	NDCC §23-07.7-01
		Convicted sex offenders	NDCC §23-07-07.5
		Persons convicted of an epidemiologically risky offense	NDCC §23-07-07.5
		Mandatory testing outside of the criminal justice system	Threats to public health may be required to be tested
	Occupational exposure – health care workers may request testing of source patient	Occupational exposure – health care workers who expose patients must notify patient of exposure and undergo testing upon request of the exposed	NDCC §23-07.5-02
		Blood/organ/anatomical/semen donations	NDCC §23-06.2-11.1
<b>PRE-TESTING</b>	Mandatory offering of HIV/AIDS information and/or testing	No related laws found	
	Informed consent	Informed consent required – not specified written vs. verbal	NDCC §23-07.5-04
		Exceptions to required consent	NDCC §23-07.5-04

		Procedures for refused consent – court orders	NDCC §23-07.4-02
	Counseling requirements	Persons who pose threat to public health may be required to receive counseling	NDCC §23-07.4-01 NDCC §23-07.4-02
	Anonymous testing	No related laws found	
POST-TESTING	Disclosure/confidentiality	HIV test results as confidential	NDCC §23-07-02.2
		Exceptions to confidentiality	NDCC §23-01.3-02
		Disclosure of HIV status of sex offender to victim	NDCC §23-07.7-01
		Notification of possible infection to persons handling bodies	NDAC 33-05-02-02
	Reporting	Name-based reporting	NDCC §23-07-02.1
		Contact tracing appropriate for epidemiological purposes	NDAC 33-06-04-10
OTHER	Testing of pregnant women and/or newborns	No related laws found	
	Testing of minors/adolescents	Minors 14 years of age or older may consent to STD services	NDCC §14-10-17
		Minors may consent to HIV testing and treatment	NDCC §23-07.5-02
	Rapid HIV testing	No related laws found	
	Training and education of health care providers	Addiction counselors must be educated regarding HIV/AIDS	NDAC 4.5-02.1-01-03

### Recommended Resources

#### North Dakota Legislative Branch

<http://www.legis.nd.gov/>

#### North Dakota Administrative Code

<http://www.legis.nd.gov/information/rules/admincode.html>

#### North Dakota Department of Health

<http://www.health.state.nd.us/>

**Title 14: Domestic Relations and Persons**

<b>ND Title 14 Code §</b>	<b>Code Language</b>
§ 14-10-17	<b>Minors - Treatment for sexually transmitted disease - Drug abuse - Alcoholism.</b>  Any person of the age of fourteen years or older may contract for and receive examination, care, or treatment for sexually transmitted disease, alcoholism, or drug abuse without permission, authority, or consent of a parent or guardian.

<b>Title 23: Health and Safety</b>
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ND Title 23 Code §	Code Language
§ 23-01.3-02	<p><b>Disclosure of protected health information -- In general</b></p> <p>Protected health information in possession of a public health authority may be disclosed only as authorized by this chapter or another law of this state explicitly authorizing the disclosure of that information, except that protected health information received or maintained under chapter 23-01.1 may be disclosed only as authorized by that chapter. Subject to section 23-01-15, subsection 1 of section 23-07-02.2, and any other requirements of this title, this chapter does not prohibit a public health authority from disclosing protected health information for use in a biomedical research project approved by an institutional review board or a privacy board or protected health information that has been transformed to protect the identity of the patient through coding or encryption if the information is disclosed for use in an epidemiological or statistical study.</p>
§ 23-06.2-11.1	<p><b>Anatomical parts testing - Exception</b></p> <p>No anatomical parts of human bodies, including whole blood, plasma, blood products, blood derivatives, semen, body tissue, organs, and parts of organs or products derived from parts of organs may be used for injection, transfusion, or transplantation into a human body unless the anatomical parts or the donor have been examined for the presence of antibodies to or antigens of the human immunodeficiency virus and the test is negative for the presence of such antibodies or antigens. The testing requirement of this section does not apply if, in a medical emergency constituting a serious threat to the life of a potential anatomical part recipient, a required anatomical part that has been subjected to the testing required under this section is not available. The state department of health may adopt rules to implement the requirements of this section.</p>
§ 23-07-02.1	<p><b>Reports of human immunodeficiency virus infection -- Penalty</b></p> <p>Every attending physician treating an individual known by the physician to have a diagnosis of human immunodeficiency virus infection, acquired immune deficiency syndrome, or human immunodeficiency virus related illness, including death from human immunodeficiency virus infection, shall make a report on that individual to the state department of health. A person treating an individual known to have human immunodeficiency virus infection in a hospital, a clinic, a sanitarium, the physical custody of the department of corrections and rehabilitation, a regional or local correctional facility or juvenile detention center, the North Dakota youth correctional center, or other private or public institution shall make a report on that individual to the facility administrator or the facility administrator's designee. Further disclosure of information on any individual known to have human immunodeficiency virus infection may</p>



<b>ND Title 23 Code §</b>	<b>Code Language</b>
	<p>only be provided to medical personnel providing direct care to the individual or as otherwise authorized by law. The designated official shall, if satisfied that the report is valid, make a report to the department on each individual having a diagnosis of human immunodeficiency virus infection, acquired immune deficiency syndrome, or human immunodeficiency virus related illness, including death from human immunodeficiency virus infection, unless the diagnosed individual's attending physician has made such a report. The reports required under this section must contain the name, date of birth, sex, and address of the individual reported on and the name and address of the physician or designated official making the report. Failure by a facility to designate an official to whom reports must be made is an infraction. Any person who in good faith complies with this section is immune from civil and criminal liability for any action taken in compliance with this section.</p>
§ 23-07-02.2	<p><b>Confidentiality of reports</b></p> <p>A report required by section 23-07-02.1 and held by the state department of health is confidential information. The information may not be disclosed, shared with any agency or institution, or made public, upon subpoena, search warrant, discovery proceedings, or otherwise, except that:</p> <ol style="list-style-type: none"> <li>1. Disclosure may be made of medical or epidemiological information for statistical purposes in a manner such that no individual person can be identified;</li> <li>2. Disclosure may be made of medical or epidemiological information to the extent necessary to enforce section 23-07-02.1 and this section and related rules concerning the treatment, control, and investigation of human immunodeficiency virus infection by public health officials; or</li> <li>3. Disclosure may be made of medical or epidemiological information to medical personnel to the extent necessary to protect the health or life of any individual.</li> </ol> <p>No officer or employee of the state department of health may be examined in any judicial, executive, legislative, or other proceeding regarding the existence or content of any individual's report retained by the department under section 23-07-02.1.</p>
§ 23-07.4-01	<p><b>Public health procedures for persons with human immunodeficiency virus infection</b></p> <p>Subject to this chapter, the state health officer or a designee of the state health officer may examine or cause to be examined a person reasonably believed to be infected with or to have been exposed to the human immunodeficiency virus.</p> <ol style="list-style-type: none"> <li>1. Orders or restrictive measures directed to a person with human</li> </ol>

<b>ND Title 23 Code §</b>	<b>Code Language</b>
	<p>immunodeficiency virus infection must be used as the last resort when other measures to protect the public health have failed, including all reasonable efforts, which must be documented, to obtain the voluntary cooperation of the person who may be subject to the order or measure. The orders and measures must be applied serially with the least intrusive measures used first. The burden of proof is on the state health officer or a designee of the state health officer to show that specified grounds exist for the issuance of the orders or restrictive measures and that the terms and conditions imposed are no more restrictive than necessary to protect the public health.</p> <p>2. When the state health officer or a designee of the state health officer knows or has reason to believe, because of medical or epidemiological information, that a person within that official's jurisdiction has human immunodeficiency virus infection and is a danger to the public health, that official may issue an order, according to the following priority, to:</p> <ul style="list-style-type: none"> <li>a. Require the person to be examined and tested to determine whether the person has human immunodeficiency virus infection;</li> <li>b. Require a person with human immunodeficiency virus infection to report to a qualified physician or health worker for counseling on the disease and for information on how to avoid infecting others; or</li> <li>c. Direct a person with human immunodeficiency virus infection to cease and desist from specified conduct that endangers the health of others, but only if that official has determined that clear and convincing evidence exists to believe that the person has been ordered to report for counseling as provided in subdivision b and continues to demonstrate behavior that endangers the health of others.</li> </ul> <p>3. If a person violates an order issued under subdivision c of subsection 2 and it is shown that the person is a danger to others, the state health officer or a designee of the state health officer may enforce the order by imposing such restrictions upon the person as are necessary to prevent the specific conduct that endangers the health of others. Restrictions must be in writing, setting forth the name of the person to be restricted and the initial period of time, not to exceed ninety days, during which the order remains effective, the terms of the restrictions, and any other conditions as may be necessary to protect the public health. Restrictions must be imposed in the least restrictive manner necessary to protect the public health.</p> <p>4. Upon issuance of any order under subsection 2 or 3, the state health officer or a designee of the state health officer shall promptly, personally, and confidentially notify the person who is the subject of the order, stating the grounds and provisions of the order and the right to contest the order, the right to be present at a judicial hearing in the district court serving the county in which the person resides to review the order, and the right to be represented by counsel during the hearing. If the person who is the subject of the order refuses to comply with the order and refuses to cooperate voluntarily with the state health officer or a</p>

<b>ND Title 23 Code §</b>	<b>Code Language</b>
	<p>designee of the state health officer, the state health officer or designee may petition the district court serving the county in which the person resides for an order of compliance. The state health officer or designee shall request the state's attorney in the county in which the person resides to file the petition in the district court. If an order of compliance is requested, the court shall hear the matter within ten days after the request. Notice of the place, date, and time of the court hearing must be made by personal service or, if the person is not available, must be mailed to the person who is the subject of the order by certified mail at the person's last-known address. Proof of mailing by the state health officer or designee is sufficient notice under this section. The burden of proof is on the state health officer or designee to show by clear and convincing evidence that the specified grounds exist for the issuance of the order and for the need for compliance and that the terms and conditions imposed in the order are no more restrictive than necessary to protect the public health. Upon conclusion of the hearing, the court shall issue appropriate orders affirming, modifying, or dismissing the order. If the court dismisses the order, the fact that the order was issued must be expunged from the records of the state department of health. If the court affirms or modifies the order and the person subject to the order is infected with the human immunodeficiency virus, the court shall require the person to disclose the names and addresses, if known, of persons with whom the person has had contact that poses an epidemiologically demonstrated risk of transmission of the human immunodeficiency virus. Failure to comply with court-ordered disclosure constitutes contempt of court.</p> <p>5. A person who is the subject of an order authorized under this section is entitled to representation by legal counsel during any hearing to review the issuance of the order.</p>
23-07.4-02	<p><b>Emergency public health procedures.</b></p> <p>1. When the procedures under section 23-07.4-01 have been exhausted or cannot be satisfied and the state health officer or designee knows or has reason to believe, because of medical or epidemiological information, that a person within that official's jurisdiction has human immunodeficiency virus infection and that the person continues to engage in behavior that presents an imminent danger to the public health, the state health officer or designee may bring an action in the district court serving the county in which the person resides to enjoin the person from engaging in or continuing to engage in such behavior. The state health officer or designee shall request the state's attorney to file the action in district court.</p> <p>2. In addition to issuance of an injunction order requested under subsection 1, the court may issue other appropriate orders including an order to take the person into custody, for a period not to exceed ninety days and place the person in a facility designated or approved by the state health officer. A custody order issued for the purpose of counseling</p>

<b>ND Title 23 Code §</b>	<b>Code Language</b>
	<p>and testing to determine whether the person has human immunodeficiency virus infection must provide for the immediate release from custody and from the facility for any person whose confirmed test results are negative and may provide for counseling or other appropriate measures to be imposed on any person whose confirmed test results are positive. The person who is the subject of the order must be given prompt, personal, and confidential notice of the order stating the grounds and provisions of the order and notifying the person of the right to contest the order, the right to be present at a judicial hearing in the district court serving the county in which the person resides to review the order, and the right to be represented by counsel during the hearing. If the person contests testing or treatment, no invasive medical procedures may be carried out before a hearing is held under subsection 3.</p> <p>3. Any order issued by the district court under subsection 2 is subject to review in a court hearing. Prompt, personal, and confidential notice of the place, date, and time of the court hearing and of the person's right to be present at the hearing and the right to representation by counsel during the hearing must be given to the person who is the subject of the court order. The hearing must be conducted by the court within forty-eight hours after the order is issued. The burden of proof is on the state health officer or designee to show by clear and convincing evidence that grounds exist for the order issued by the court under subsection 2 and that the terms and conditions imposed in the order are no more restrictive than necessary to protect the public health. Upon conclusion of the hearing, the court shall issue appropriate orders affirming, modifying, or dismissing the order. If the court dismisses the order, the fact that the order was issued must be expunged from the records of the state department of health. If the court affirms or modifies the order and the person subject to the order is infected with the human immunodeficiency virus, the court shall require the person to disclose the names and addresses, if known, of persons with whom the person subject to the order has had contact that poses an epidemiologically demonstrated risk of transmission of the human immunodeficiency virus. Failure to comply with court-ordered disclosure constitutes contempt of court.</p> <p>4. A person who is the subject of an order authorized under this section is entitled to representation by legal counsel during any hearing to review the issuance of the order.</p>
23-07.4-03	<p><b>Closed hearing - Confidentiality of information.</b></p> <p>A hearing conducted under this chapter must be closed and any report, transcript, record, or other information relating to actions taken under this chapter is confidential.</p>
§ 23-07.5-01	<p><b>Definitions</b></p> <p>In this chapter, unless the context otherwise requires:</p>

ND Title 23 Code §	Code Language
	<p>1. "Bloodborne pathogen" means a microorganism that is present in human blood or in other bodily fluid or tissue which can cause a disease in humans, including the hepatitis B virus, the hepatitis C virus, and the human immunodeficiency virus, and for which testing is recommended by the United States public health service.</p> <p>2. "Exposed individual" means an individual, including a patient, health care provider, firefighter, peace officer, correctional officer, court officer, law enforcement officer, emergency medical technician, laboratory personnel, or an individual trained and authorized by law or rule to render emergency medical assistance or treatment, including an individual rendering aid under chapter 32-03.1, who is exposed to a bloodborne pathogen.</p> <p>3. "Exposure" means a percutaneous injury, including a needle stick or cut with a sharp object; contact with blood, body fluid, or tissue of a mucous membrane or nonintact skin, including exposed skin that is chapped, abraded, or afflicted with dermatitis; or contact with other bodily fluids that are potentially infectious as determined under guidelines of the United States public health service.</p> <p>4. "Health care" means any services included in the furnishing to an individual of hospitalization, or medical or dental care, or any services incident to the furnishing of that care or hospitalization, as well as the furnishing to an individual of any other services for the purpose of preventing, alleviating, curing, or healing human illness or injury.</p> <p>5. "Health care provider" means an individual licensed, certified, or otherwise authorized by the law of this state to provide health care and includes personnel at the state crime laboratory or any commercial or research laboratory that handles blood, bodily fluid, or tissues.</p> <p>6. "Informed consent for testing" means that the individual to be tested for bloodborne pathogens has been informed of the nature of the testing; the reason for the testing; the relevant risks, benefits, and potential alternatives for testing; and the individual has granted permission to be tested.</p> <p>7. "Personal representative" means any person who has authority under law to act on behalf of an individual or deceased individual in making decisions related to health care or health information.</p> <p>8. "Test subject" means the individual who is the source of the blood, other bodily fluids, or tissue that caused the exposure.</p>
§ 23-07.5-02	<p><b>Informed consent for testing -- Exception</b></p> <p>1. Except when testing is otherwise permitted by law, a health care provider, blood bank, blood center, or plasma center may not subject an individual who is the source of an exposure to a test for bloodborne</p>

<b>ND Title 23 Code §</b>	<b>Code Language</b>
	<p>pathogens unless the subject of the test or the subject's personal representative if the subject is a minor or is incapacitated first provides informed consent for testing.</p> <p>2. If an individual who is the source of an exposure has had blood drawn that is available for testing and the individual has refused to grant consent to have that individual's blood tested for bloodborne pathogens, that individual's blood may be subjected to a test for the presence of bloodborne pathogens, without that individual's consent, if a physician or other qualified health care provider based on available information determines and certifies in writing that the individual had an exposure and before testing the test subject is informed that the test subject's blood may be tested for the presence of bloodborne pathogens; that the test results may not be disclosed without the test subject's authorization, except to the exposed individual, the individual's health care provider, and any other person as authorized by law; that if the exposed individual knows the identity of the test subject, the exposed individual may not disclose the identity of the test subject except for the purpose of having the test performed; and that a record of the test results may be kept in the exposed individual's medical record only if the record does not reveal the test subject's identity. Each exposed individual who had an exposure and to whom test results are disclosed must first be given a document indicating the exposed individual's understanding that the exposed individual may not disclose the test subject's identity and that disclosing this information constitutes a class C felony.</p> <p>3. If an individual who is the subject of an exposure is incapable of giving informed consent for testing under this section, that consent may be obtained from the individual's personal representative. If an individual who is the subject of an exposure dies without an opportunity to consent to testing, collection of appropriate specimens and testing for the presence of bloodborne pathogens must be conducted as soon as reasonably possible. Results of these tests must be provided to the physician providing care for the individual who experienced the exposure. If a facility that received the individual who died fails to test for the presence of bloodborne pathogens as required under this subsection because the facility was not aware of the exposure or it was not reasonably possible to conduct testing, the facility shall provide the physician providing care for the exposed individual or health care provider testing results of any bloodborne pathogen present in any medical records of the deceased individual which are in the facility's control as soon as reasonably possible. If there are no testing results for bloodborne pathogens within that facility and there is reason to believe that results are available from another facility, the facility that received the deceased individual shall attempt to obtain testing results of bloodborne pathogens of the deceased individual as soon as reasonably possible from the facility where it is believed results exist. The test results must be provided to the physician providing care for the individual who experienced the exposure.</p>

<b>ND Title 23 Code §</b>	<b>Code Language</b>
	<p>4. A test for bloodborne pathogens must be conducted according to recommendations of the United States public health service. Any testing done pursuant to subsection 2 or 3 must be conducted in a reasonably expedient manner. The district court in the county where the alleged exposure occurred or in which the individual to be tested resides shall issue an order directing the individual who was the source of an exposure to have blood drawn to be tested for bloodborne pathogens. An affidavit from a physician or other qualified health care provider showing that an exposure has occurred is prima facie evidence of those facts. The affidavit may not be excluded as hearsay if the affidavit is based on evidence generally relied on by a health care provider, including statements from the provider's patient. The record of any court hearing conducted under this subsection is confidential. The court shall issue an order requiring testing under this subsection if:</p> <ul style="list-style-type: none"> <li>a. The court finds probable cause to believe that the individual petitioning for the testing had an exposure with the test subject;</li> <li>b. The petition substitutes a pseudonym for the true name of the test subject;</li> <li>c. The court provides the test subject with notice and reasonable opportunity to participate in the proceeding if the person is not already a party to the proceeding;</li> <li>d. The proceedings are conducted in camera; and</li> <li>e. The court imposes appropriate safeguards against unauthorized disclosure which must specify the individuals who have access to the information, the purposes for which the information may be used, and appropriate prohibition on future disclosure.</li> </ul> <p>5. If the court issues an order for testing, the court may order the confinement of the test subject until blood is drawn for testing or issue an order establishing reasonable security for the individual's attendance at the test site. This order may be modified or extended.</p> <p>6. A health care provider who subjects an individual to an exposure must notify the individual of the exposure. A health care provider witnessing an exposure may report the exposure pursuant to any appropriate facility or employer guidelines to which the provider may be subject. The knowing failure to inform an individual of an exposure or refusal to submit to testing as required under this chapter may be considered by a health care provider's licensing board to constitute conduct that may subject the licensee to disciplinary action.</p> <p>7. The exposed individual shall pay the expense of testing. However, if the exposure occurs at an employee's workplace, the worker's employer shall pay the expense of testing unless otherwise provided by subdivision b of subsection 10 of section 65-01-02. If the individual to be tested is</p>



<b>ND Title 23 Code §</b>	<b>Code Language</b>
	convicted of a crime relating to the exposure or the exposure occurred during an arrest or other contact with the exposed individual in the course of that individual's official duties, a court may order the individual to be tested to pay for the testing.
§ 23-07.5-04	<p><b>Record maintenance</b></p> <p>A health care provider who collects a specimen of body fluids or tissues for the purpose of testing for the presence of bloodborne pathogens caused by an exposure shall obtain from the test subject or the test subject's personal representative if the subject is a minor or is incapacitated, informed consent for testing unless testing is otherwise authorized by law. In addition, the health care provider shall maintain a record of the test results obtained.</p>
§ 23-07.5-06	<p><b>Expanded disclosure of test results prohibited</b></p> <p>A person to whom the results of a test for the human immunodeficiency virus have been disclosed under this chapter may not disclose the test results except as authorized by law.</p>
§ 23-07.7-01	<p><b>Court-ordered sexual offense medical testing</b></p> <p>1. The court may order any defendant charged with a sex offense under chapter 12.1-20 and any alleged juvenile offender with respect to whom a petition has been filed in a juvenile court alleging violation of chapter 12.1-20 to undergo medical testing to determine whether the defendant or alleged juvenile offender has any sexually transmitted diseases, including a test for infection with the human immunodeficiency virus or any other identified positive agent of acquired immunodeficiency syndrome. The court may not order a defendant charged with violating section or 12.1-20-13 or an alleged juvenile offender with respect to when a petition has been filed in a juvenile court alleging violation of section or 12.1-20-13 to undergo the testing authorized by this section. The court may order the testing only if the court receives a petition from the alleged victim of the offense or from the prosecuting attorney if the alleged victim has made a written request to the prosecuting attorney to petition the court for an order authorized under this section. On receipt of a petition, the court shall determine, without a hearing, if probable cause exists to believe that a possible transfer of a sexually transmitted disease or human immunodeficiency virus took place between the defendant or alleged juvenile offender and the alleged victim. If the court determines probable cause exists, the court shall order the defendant or alleged juvenile offender to submit to testing and that a copy of the test results be released to the defendant's or alleged juvenile offender's physician and each requesting victim's physician.</p> <p>2. If a defendant is charged with a sexual offense under chapter 12.1-20 in which the alleged victim is compelled by force or threat to engage in sexual activity or sexual contact, the prosecuting attorney shall inform</p>



<b>ND Title 23 Code §</b>	<b>Code Language</b>
	<p>the alleged victim that the alleged victim may request that a test for infection with the human immunodeficiency virus or any other identified agent of acquired immunodeficiency syndrome be administered to the defendant. If the alleged victim requests that the test be administered, the prosecuting attorney shall notify the court. The court shall order that the test be administered within forty-eight hours after the date the complaint or information is filed or after the defendant's initial appearance.</p> <p>3. If a test is ordered under subsection 1 or 2, physicians for the defendant or alleged juvenile offender and requesting alleged victim must be specifically named in the court order, and the court order must be served on the physicians before any test.</p>
§ 23-07.7-02	<p><b>Testing procedures -- Results of test -- Penalty</b></p> <p>1. If testing is ordered by a court under section 23-07.7-01, only a health care provider, blood bank, blood center, or plasma center may obtain a specimen of bodily fluids or tissues for the purpose of testing.</p> <p>2. The court shall order that the specimen be transmitted to a licensed medical laboratory and that tests be conducted for medically accepted indications of exposure to or infection by acquired immunodeficiency syndrome virus, acquired immunodeficiency syndrome-related conditions, and sexually transmitted diseases for which medically approved testing is readily and economically available as determined by the court.</p> <p>3. The laboratory shall send a copy of the test results to the physicians designated in the court order, who shall then release the test results to the defendant or alleged juvenile offender and each requesting victim as designated in the court order. The court order must be served on the physicians before any test. The laboratory also shall send a copy of test results that indicate exposure to or infection by acquired immunodeficiency syndrome virus, acquired immunodeficiency syndrome-related conditions, or other sexually transmitted diseases to the state department of health.</p> <p>4. Every copy of the test results must include the following disclaimer:</p> <p style="padding-left: 40px;">The testing was conducted in a medically approved manner, but tests cannot determine exposure to or infection by acquired immunodeficiency syndrome or other sexually transmitted diseases with absolute accuracy. Anyone receiving this test result should continue to monitor their own health and should consult a physician as appropriate.</p> <p>5. The court shall order all persons, other than the test subject, who receive test results pursuant to section 23-07.7-01, to maintain the confidentiality of personal identifying data relating to the test results except for disclosure that may be necessary to obtain medical or</p>

<b>ND Title 23 Code §</b>	<b>Code Language</b>
	<p>psychological care or advice. A person who intentionally discloses the results of any test in violation of this subsection and thereby causes bodily or psychological harm to the subject of the test is guilty of a class C felony.</p> <p>6. The specimens and the results of tests ordered pursuant to section 23-07.7-01 are not admissible evidence in any civil, criminal, or juvenile proceeding.</p> <p>7. Any person who performs testing, transmits test results, or discloses information pursuant to this chapter is immune from civil liability for any action undertaken in accordance with this chapter, except for an act or omission that constitutes gross negligence.</p> <p>8. The county in which the alleged violation of chapter 12.1-20 occurred shall pay for the testing. A defendant who is convicted of the offense shall reimburse the county for the costs of testing.</p>
§ 23-07-07.5	<p><b>Testing of inmates and convicted individuals for exposure to the human immunodeficiency virus - Reporting – Liability</b></p> <p>1. The following individuals must be examined or tested for the presence of antibodies to or antigens of the human immunodeficiency virus:</p> <ul style="list-style-type: none"> <li>a. Every individual convicted of a crime who is imprisoned for fifteen days or more in a grade one or grade two jail, a regional correctional facility, or the state penitentiary;</li> <li>b. Every individual, whether imprisoned or not, who is convicted of a sexual offense under chapter 12.1-20, except for those convicted of violating sections, and 12.1-20-13; and</li> <li>c. Every individual, whether imprisoned or not, who is convicted of an offense involving the use of a controlled substance, as defined in chapter 19-03.1, and the offense involved the use of paraphernalia, including any type of syringe or hypodermic needle, that creates an epidemiologically demonstrated risk of transmission of the human immunodeficiency virus.</li> </ul> <p>2. The results of any positive or reactive test must be reported to the state department of health in the manner prescribed by the department and to the individual tested. Subsection 1 does not require the testing of an individual before sentencing or the testing of an individual held in a jail or correctional facility awaiting transfer to the state penitentiary.</p> <p>3. A licensed physician, nurse, technician, or employee of a hospital or clinic who draws blood from any person for the purpose of conducting a test required by this section is not liable in any civil action for damages arising out of such action except for an act or omission that constitutes gross negligence.</p>

**North Dakota Administrative Code – Title 4.5: Board of Addiction Counseling Examiners**

<b>Title 4.5 NDAC</b>	<b>Code Language</b>
4.5-02.1-01-03	<p><b>Academic requirements.</b></p> <p>Academic requirements related to the licensing of addiction counselors must be completed at an accredited college or university. A bachelor's degree is required for applications made before January 1, 2005. A bachelor's degree in addiction studies or a closely related social science or health care field is required for applications made after December 31, 2004. A minimum of thirty-two total credit hours in addiction studies is required. The thirty-two credit hours must include academic course content in the following areas:</p> <p>3. Theory.</p> <p>a. Curriculum content. (8) AIDS and HIV;</p>

<b>North Dakota Administration Code – Title 33: State Department of Health</b>	
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<b>Title 33 NDAC</b>	<b>Code Language</b>
33-05-02-02	<p><b>Notification required of death from post-mortem communicable diseases</b></p> <p>When any person dies who has been diagnosed or suspected as having a post-mortem communicable disease, a written notice stating "BLOOD AND BODY FLUIDS PRECAUTIONS SHOULD BE OBSERVED" must be securely attached to the body in a prominent location thereon so it can be easily seen when the body is removed for disposition as follows:</p> <ol style="list-style-type: none"> <li>1. If the person dies in a hospital or other health care facility, the notice must be prepared and placed by the attending physician or other health care professional or representative on behalf of the hospital or health care facility.</li> <li>2. If the person dies outside of a hospital or health care facility, the notice must be prepared and placed by the attending physician, or in the absence of an attending physician, by the examining coroner. Any person who removes a dead human body for disposition which has a notice attached pursuant to this chapter shall ensure that such notice remains attached to the dead body until the body is presented to any funeral practitioner, funeral director, or other person taking possession of the dead body.</li> </ol>
33-06-01-01	<p><b>Reportable conditions.</b></p> <p>All reports and information concerning reportable conditions are confidential and not open to inspection. The following designated reportable conditions must be reported to the state department of health by the persons designated in chapter 33-06-02. If any reportable condition is designated by an asterisk, an appropriate sample or isolate must be submitted to the division of microbiology (public health laboratory) in addition to the required report.</p> <p>25. Human immunodeficiency virus (HIV) infection, including acquired immunodeficiency syndrome (AIDS)*. (Any positive HIV test result.)</p> <p>26. Human immunodeficiency virus (HIV) nucleic acid test result (detectable or nondetectable).</p> <p>44. Pregnancy in a person infected with hepatitis B, HIV, Group B strep, syphilis, or other perinatally transmissible disease.</p>
33-06-02-01	<p><b>Reporting.</b></p> <p>1. Morbidity reports. Reporting may be conducted by completion of reporting forms, telephonic, electronic, or through other means designated by the state department of health. All morbidity reports must be made as soon as a laboratory test result is positive or a clinical diagnosis is made.</p>

<b>Title 33 NDAC</b>	<b>Code Language</b>
	<p>2. Printed forms. Reporting forms will be provided by the state department of health. For those conditions which may require investigation to prevent spread of the condition, forms are available which specify the patient's name and address, age, sex, occupation, probable source of infection, date of exposure, date of onset, and name and address of the person making the report. For those conditions which do not require investigations, forms are available for reporting the conditions by number only.</p> <p>3. Telephonic reports. Physicians shall notify the state health officer by telephone of any unusual outbreak of food infections and poisonings, and of any case of bubonic plague, rabies, anthrax, botulism, Rocky Mountain spotted fever, and such other conditions as the state department of health may from time-to-time designate.</p> <p>4. Teacher must report suspected cases. Whenever any school principal or teacher in any private, public, or parochial school has reason to suspect that any pupil is suffering from or has been exposed to any communicable condition, such principal or teacher shall send the child home with instructions to see the child's family physician. Any pupil so excluded shall not be permitted to attend school again until the pupil shall present a certificate from a physician licensed to practice medicine in North Dakota or from the local health department stating that the child is not suffering from a communicable condition and that it is safe for the child to return to school. Such principal or teacher shall also report any such suspected case to the local health officer, who, upon receipt of such report, shall use the officer's best judgment as to the necessity for further investigating the case.</p> <p>5. All medical diagnostic laboratories are required to report any laboratory test result (serological, culture, etc.) which may be interpreted as indicative of any of the reportable conditions to the state department of health. Test results from specimens sent by in-state laboratories to out-of-state laboratories are also required to be reported.</p> <p>6. In addition to reporting requirements specified under subsection 5, mandatory reporters include:</p> <ol style="list-style-type: none"> <li>a. All physicians and other health care providers administering, screening, diagnostic, or therapeutic services.</li> <li>b. Hospitals, including those providing inpatient or outpatient, services, or both.</li> <li>c. Health care facilities, including basic care facilities and mobile units, providing screening, diagnostic, or therapeutic services.</li> </ol>
33-06-04-10	<p><b>Sexually transmitted diseases</b></p> <p>1. Contact tracing is appropriate for the following sexually transmitted diseases:</p> <ol style="list-style-type: none"> <li>a. Human immunodeficiency virus (HIV) infection;</li> <li>b. Acquired immunodeficiency syndrome (AIDS);</li> </ol>

<b>Title 33 NDAC</b>	<b>Code Language</b>
	<p>c. Chlamydia; d. Gonorrhea; e. Hepatitis B virus (HBV); and f. Syphilis.</p> <p>2. Individuals infected with a sexually transmitted disease for which contact tracing is appropriate shall disclose information concerning the source of the infection to their attending physician or public health officer.</p> <p>3. Information obtained pursuant to this section will be used solely for epidemiological purposes.</p>

<b>North Dakota Administrative Code – Title 45: Commissioner of Insurance</b>	
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<b>Title 45 NDAC</b>	<b>Code Language</b>
45-03-11-01	<p><b>Definitions.</b></p> <p>1. "Informed consent form" means a printed document on which an individual may signify that individual's informed consent for testing for the presence of an antibody to the human immunodeficiency virus or authorize the disclosure of any test results obtained.</p> <p>2. "Informed consent for testing or disclosure" means written consent on an informed consent form by an individual to the administration of a test to that individual for the presence of an antibody to the immunodeficiency virus or to the disclosure to a specified person of the results of a test administered to the consenting individual.</p>
45-03-11-02	<p><b>Requirement for informed consent and disclosure.</b></p> <p>Any insurance company, health maintenance organization, fraternal benefit society, benevolent society, or nonprofit health service corporation conducting business in this state which requests its applicants for insurance coverage to provide a body fluid sample for the purpose of testing and analysis which may include testing to determine the presence of antibodies or antigens to the human immunodeficiency virus (HIV), also known as the AIDS virus, as part of its underwriting process, shall, prior to any such testing, obtain from the applicant the applicant's informed consent for testing or disclosure of the test results as provided under section 45-03-11-04.</p>
45-03-11-03	<p><b>Prescribed form of informed consent.</b></p> <p>Any insurance company, health maintenance organization, fraternal benefit society, benevolent society, or nonprofit health service corporation which subjects an applicant for insurance coverage to a test for the presence of an antibody or antigen to the human immunodeficiency virus under section 45-03-11-02 shall provide the applicant with an informed consent form and shall obtain the applicant's signature on the form. The form must contain at least the following language printed in type no smaller than ten point, and must take substantially the following form:</p>
45-03-11-04	<p><b>Informed consent - Legal requirements.</b></p> <p>The form prescribed in section 45-03-11-03 is not in lieu of any legal requirements applicable to persons drawing or testing blood for human immunodeficiency virus to obtain informed consent for testing or disclosure.</p>
45-03-11-05	<p><b>Notification of test results.</b></p> <p>If the results of testing subject to this chapter are other than normal, the</p>

<b>Title 45 NDAC</b>	<b>Code Language</b>
	insurer shall notify the North Dakota department of health and consolidated laboratories. The written notification must indicate the specific nature of the abnormal test results and must also indicate all persons to whom the test results have been disclosed. The notice must also inform the department of the specific tests and procedures used to determine the proposed insured as an other than normal test result.