

South Carolina

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April 8, 2011

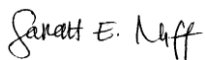
To the Reader:

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.

Thank you,



Sarah E. Neff, MPH
Director of Research and Evaluation

&



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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.¹
 - **Pre-test counseling** can include: (1) discussing HIV, risk factors and prevention methods; (2) explaining the meaning of positive and negative test results and their implications; (3) assessing the patient’s personal and social supports; (4) determining the patient’s readiness to cope with test results; (5) discussing disclosure of test results to others; and (6) advising the patient if reporting positive test results to health authorities is required.
 - **Post-test counseling** can include: (1) informing the patient of the results and meaning of the test results; (2) providing education about avoiding risks of sexual and injection drug exposures; and, for patients who test positive, (3) assessing the impact of test results for the patient and family; (3) explaining treatment options; (4) discussing partner counseling and disclosure of test results to others; and (5) initiating a support and treatment plan.
- **General Consent** – Consent for HIV screening is included in the general medical consent.
- **HIV** – Human Immunodeficiency Virus.
- **Informed Consent** – A process of communication between patient and provider through which an informed patient can choose whether to undergo HIV testing or decline to do so. Elements of informed consent typically include providing oral or written information regarding HIV, the risks and benefits of testing, the implications of HIV test results, how test results will be communicated, and the opportunity to ask questions.¹
- **Name-based reporting** – Cases are reported by patient name (required in all states except HI and VT).
- **Opt-in** – Patients typically are provided pre-HIV test counseling and must consent specifically to an HIV-antibody test, either orally or in writing.²
- **Opt-out** – Performing HIV screening after notifying the patient that: the test will be performed; and the patient may elect to decline or defer testing. Assent is inferred unless the patient declines testing.¹
- **Routine Testing** – HIV screening that is performed routinely during health-care encounters.
- **Rapid Testing** – Testing with any of the six FDA-approved rapid HIV tests that produce results in 30 minutes or less.³
- **Specific Consent** – Consent for the HIV screening is separate from the general medical consent.

Helpful Resources

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

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

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

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

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

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

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

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

South Carolina

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

April 8, 2011

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

Informed Consent

- No specific provisions regarding consent were found.

Counseling

- No specific provisions regarding counseling were found (see *State Policies Relating to HIV Testing, 2011*, below, for exceptions).

Provisos of Testing

- **Anonymous**
 - Anonymous testing is not available.
- **Rapid**
 - No specific provisions regarding rapid testing were found.
- **Routine**
 - No specific provisions regarding routine testing were found.

Disclosure

- Notification to sexual and needle-sharing partners of possible exposure to HIV is required.

Minor/Adolescent Testing

- Persons 16 years or older may consent to HIV testing.

South Carolina

Perinatal Quick Reference Guide:

A Guide to South Carolina Perinatal HIV Testing Laws for Clinicians

April 8, 2011

This Perinatal Quick Reference Guide for clinicians is a summary of relevant South 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 South 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**
 - 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

South Carolina State Policies Relating to HIV Testing, 2011

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South Carolina Code of Laws [SCC]

Title 16: Crimes and Offenses..... Pages 3-5
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Title 44: Health..... Pages 8-12

South Carolina Code of Regulations [SCCR]

Chapter 61: Department of Health and Environmental Control..... Pages 13-17

	Policy Category	Type	Section Code(s)
RESTRICTIONS/ MANDATES	Restrictions on use of HIV test	No related laws found	
	Mandatory testing within the criminal justice system	Potential transmission to victims by adults and juveniles. Post-test counseling required.	SCC §16-3-740
		Inmate who attempts to throw or throws body fluids may be tested in cases of significant health risk to victim	SCC §24-13-470
	Mandatory testing outside of the criminal justice system	Occupational exposure - health care workers may request testing of source individual	SCC §44-29-230
PRE-TESTING	Mandatory offering of HIV/AIDS information and/or testing	Testing encouraged but not required of patients to protect health care workers	SCC §44-29-240
	Informed consent	No related laws found	
	Counseling requirements	Department may use provider reports to provide counseling	SCCR 61-21
		Mandatory post-test counseling if positive result in cases of convicted offenders and if requested by their victims	SCC §16-3-740
	Anonymous testing	Confidential testing only	SCC §44-29-250
POST-TESTING	Disclosure/confidentiality	HIV test results as confidential	SCC §44-29-135
		Court orders may allow access to confidential test results under limited circumstances	SCC §44-29-136
		Partner notification – sexual and intravenous drug contacts must be notified	SCC §44-29-90 SCC §44-29-146

		Notification of school superintendent and nurse of HIV-positive student	SCC §44-29-135
	Reporting	Name-based reporting	SCC §44-29-80
		Laboratories must report prevalence from anonymous testing sites	SCC §44-29-250
OTHER	Testing of pregnant women and/or newborns	No related laws found	
	Testing of minors/adolescents	Minors 16 years or older may consent to services other than operations	SCC §20-7-280
	Rapid HIV testing	No related laws found	
	Training and education of health care providers	No related laws found	

Recommended Resources

South Carolina Code of Laws

<http://www.scstatehouse.net/code/statmast.htm>

South Carolina Code of Regulations

<http://www.scstatehouse.net/coderegs/statmast.htm>

South Carolina Department of Health and Environmental Control, STD/HIV Division

<http://www.scdhec.gov/health/disease/stdhiv/>

HIV and the Law (updated 2000)

<http://www.scdhec.net/health/disease/docs/HIVaids.pdf>

Recommended Prenatal Screening for Sexually Transmitted Diseases and HIV

<http://www.scdhec.net/health/disease/stdhiv/docs/prenatalhivstd.pdf>

Title 16: Crimes and Offenses

SC Title 16 Code §	Code Language
§ 16-3-740	<p>Testing of certain convicted offenders for Hepatitis B, sexually transmitted diseases, and Human Immunodeficiency Virus.</p> <p>(A) For purposes of this section:</p> <ol style="list-style-type: none"> (1) "Body fluid" means blood, amniotic fluid, pericardial fluid, pleural fluid, synovial fluid, cerebrospinal fluid, semen or vaginal secretions, or any body fluid visibly contaminated with blood. (2) "HIV" means the Human Immunodeficiency Virus. (3) "Offender" includes adults and juveniles. <p>(B) Upon the request of a victim who has been exposed to body fluids during the commission of a criminal offense, or upon the request of the legal guardian of a victim who has been exposed to body fluids during the commission of a criminal offense, the solicitor must, at any time after the offender is charged, or at any time after a petition has been filed against an offender in family court, petition the court to have the offender tested for Hepatitis B and HIV. An offender must not be tested under this section for Hepatitis B and HIV without a court order. To obtain a court order, the solicitor must demonstrate the following:</p> <ol style="list-style-type: none"> (1) the victim or the victim's legal guardian requested the tests; (2) there is probable cause that the offender committed the offense; (3) there is probable cause that during the commission of the offense there was a risk that body fluids were transmitted from one person to another; and (4) the offender has received notice of the petition and notice of his right to have counsel represent him at a hearing. <p>The results of the tests must be kept confidential and disclosed only to the solicitor who obtained the court order. The solicitor shall then notify only those persons designated in subsection (C).</p> <p>(C) The tests must be administered by the Department of Health and Environmental Control through the local county health department or the medical professional at the state or local detention facility where the offender is imprisoned or detained. The solicitor shall notify the following persons of the tests results:</p> <ol style="list-style-type: none"> (1) the victim or the legal guardian of a victim who is a minor or is mentally retarded or mentally incapacitated; (2) the victim's attorney; (3) the offender and a juvenile offender's parent or guardian; and (4) the offender's attorney. <p>The results of the tests shall be provided to the designated recipients with the following disclaimer: "The tests were conducted in a medically approved manner, but tests cannot determine infection by Hepatitis B or HIV with absolute accuracy. Additionally, the testing does not determine exposure to or infection by other sexually transmitted diseases. Persons receiving the tests results should continue to monitor their own health, seek retesting in approximately six months, and should consult a physician as appropriate". The solicitor also shall provide to the state or local correctional facility</p>

SC Title 16 Code §	Code Language
	<p>where the offender is imprisoned or detained and the Department of Health and Environmental Control the test results for HIV and Hepatitis B which indicate that the offender is infected with the disease. The state or local correctional facility where the offender is imprisoned or detained shall use this information solely for the purpose of providing medical treatment to the offender while the offender is imprisoned or detained. The State shall pay for the tests. If the offender is subsequently convicted or adjudicated delinquent, the offender or the parents of an adjudicated offender must reimburse the State for the costs of the tests unless the offender or the parents of the adjudicated offender are determined to be indigent. If the tests given pursuant to this section indicate infection by Hepatitis B or HIV, the Department of Health and Environmental Control shall be provided with all tests results and must provide counseling to the offender regarding the disease, syndrome, or virus. The Department of Health and Environmental Control must also provide counseling for the victim, advise the victim of available medical treatment options, refer the victim to appropriate health care and support services, and, at the request of the victim or the legal guardian of a victim, test the victim for HIV and Hepatitis B and provide post-testing counseling to the victim.</p> <p>(D) At the request of the victim or the victim's legal guardian, the court may order a follow-up HIV test and counseling for the offender if the initial HIV test was negative. The follow-up test and counseling shall be performed on dates that occur six weeks, three months, and six months following the initial test. An order for a follow-up test shall be terminated if the offender obtains an acquittal on, or dismissal of, all charges for which testing was ordered.</p> <p>(E) If, for any reason, the testing requested under subsection (B) has not been undertaken, upon request of the victim or the victim's legal guardian, the court shall order the offender to undergo testing for Hepatitis B and HIV following conviction or delinquency adjudication. The testing shall be administered by the Department of Health and Environmental Control through the local county health department or the medical professional at the state or local detention facility where the offender is imprisoned or detained. The results shall be disclosed in accordance with the provisions of subsection (C).</p> <p>(F) Upon a showing of probable cause that the offender committed a crime, the collection of additional samples, including blood, saliva, head or pubic hair may be contemporaneously ordered by the court so that the State may conduct scientific testing, including DNA analysis. The results of the scientific testing, including DNA analysis, may be used for evidentiary purposes in any court proceeding.</p> <p>(G) Any person or entity who administers tests ordered pursuant to this section and who does so in accordance with this section and accepted medical standards for the administration of these tests shall be immune from civil and criminal liability arising from his conduct.</p>

SC Title 16 Code §	Code Language
	<p>(H) Any person who discloses information in accordance with the provisions of this section or who participates in any judicial proceeding resulting from the disclosure and who does so in good faith and without malice shall have immunity from civil or criminal liability that might otherwise be incurred or imposed in an action resulting from the disclosure.</p> <p>(I) Results of tests performed pursuant to this section shall not be used as evidence in any criminal trial of the offender except as provided for in subsection (F).</p>

Title 20: Domestic Relations

SC Title 20 Code §	Code Language
§ 20-7-280	<p>Minor sixteen years old or over may consent to health services other than operations.</p> <p>Any minor who has reached the age of sixteen years may consent to any health services from a person authorized by law to render the particular health service for himself and the consent of no other person shall be necessary unless such involves an operation which shall be performed only if such is essential to the health or life of such child in the opinion of the performing physician and a consultant physician if one is available.</p>

Title 24: Corrections, Jails, Probations, Paroles, and Pardons

SC Title 24 Code §	Code Language
§ 24-13-470	<p>Throwing of body fluids on correctional facility employees and certain others; penalty; blood borne disease testing.</p> <p>(A) An inmate, detainee, a person taken into custody, or a person under arrest who attempts to throw or throws body fluids including, but not limited to, urine, blood, feces, vomit, saliva, or semen on an employee of a state correctional facility or local detention facility, a state or local law enforcement officer, a visitor of a state correctional facility or local detention facility, or any other person authorized to be present in a state correctional facility or local detention facility in an official capacity is guilty of a felony and, upon conviction, must be imprisoned not more than fifteen years. A sentence under this provision must be served consecutively to any other sentence the inmate is serving. This section shall not prohibit the prosecution of an inmate for a more serious offense if the inmate is determined to be HIV-positive or has another disease that may be transmitted through body fluids.</p> <p>(B) A person accused of a crime contained in this section may be tested for a blood borne disease within seventy-two hours of the crime if a health care professional believes that exposure to the accused person's body fluid may pose a significant health risk to a victim of the crime.</p> <p>(C) This section does not apply to a person who is a "patient" as defined in Section 44-23-10(3).</p> <p>(D) For purposes of this section, "local correctional facility" includes, but is not limited to, a local detention facility.</p>

Title 44: Health

SC Title 44 Code §	Code Language
§ 44-29-80	<p>Laboratories shall report positive tests and cooperate in preventing spread of sexually transmitted disease.</p> <p>Any laboratory performing a positive laboratory test for a sexually transmitted disease shall make a report of the case or positive laboratory test for a sexually transmitted disease to the Department of Health and Environmental Control in the form and manner as the department directs and shall cooperate with the Department of Health and Environmental Control and local boards of health in preventing the spread of sexually transmitted diseases.</p>
§ 44-29-90	<p>Examination, treatment and isolation of persons infected with venereal disease.</p> <p>State, district, county, and municipal health officers, in their respective jurisdictions, when in their judgment it is necessary to protect the public health, shall make examination of persons infected or suspected of being infected with a sexually transmitted disease, require persons infected with a sexually transmitted disease to report for treatment appropriate for their particular disease provided at public expense, and request the identification of persons with whom they have had sexual contact or intravenous drug use contact, or both. The health officer may isolate persons infected or reasonably suspected of being infected with a sexually transmitted disease. To the extent resources are available to the Department of Health and Environmental Control for this purpose, when a person is identified as being infected with Human Immunodeficiency Virus (HIV), the virus which causes Acquired Immunodeficiency Syndrome (AIDS), his known sexual contacts or intravenous drug use contacts, or both, must be notified but the identity of the person infected must not be revealed. Efforts to notify these contacts may be limited to the extent of information provided by the person infected with HIV. Public monies appropriated for treatment of persons infected with a sexually transmitted disease must be expended in accordance with priorities established by the department, taking into account the cost effectiveness, curative capacity of the treatment, and the public health benefit to the population of the State.</p>
§ 44-29-135	<p>Confidentiality of sexually transmitted disease records.</p> <p>All information and records held by the Department of Health and Environmental Control and its agents relating to a known or suspected case of a sexually transmitted disease are strictly confidential except as provided in this section. The information must not be released or made public, upon subpoena or otherwise, except under the following circumstances:</p> <p>(a) release is made of medical or epidemiological information for statistical purposes in a manner that no individual person can be identified; or</p> <p>(b) release is made of medical or epidemiological information with the</p>

SC Title 44 Code §	Code Language
	<p>consent of all persons identified in the information released;</p> <p>(c) release is made of medical or epidemiological information to the extent necessary to enforce the provisions of this chapter and related regulations concerning the control and treatment of a sexually transmitted disease;</p> <p>(d) release is made of medical or epidemiological information to medical personnel to the extent necessary to protect the health or life of any person; or</p> <p>(e) in cases involving a minor, the name of the minor and medical information concerning the minor must be reported to appropriate agents if a report is required by the Child Protection Act of 1977. No further information is required to be released by the department. If a minor has Acquired Immunodeficiency Syndrome (AIDS) or is infected with Human Immunodeficiency Virus (HIV), the virus that causes AIDS, and is attending the public schools, the superintendent of the school district and the nurse or other health professional assigned to the school the minor attends must be notified.</p>
§ 44-29-136	<p>Court orders for disclosure of records for law enforcement purposes; confidentiality safeguards.</p> <p>(A) A portion of a person's sexually transmitted disease test results disclosed to a solicitor or state criminal law enforcement agency pursuant to Section 44-29-135(c) must be obtained by court order upon a finding by the court that the request is valid under Section 44-29-135(c) and that there is a compelling need for the test results. In determining a compelling need, the court must weigh the need for disclosure against both the privacy interest of the test subject and the potential harm to the public interest if disclosure deters future Human Immunodeficiency Virus-related testing and counselling or blood, organ, and semen donation. No information regarding persons other than the subject of the test results must be released. The court shall provide the department and the person who is the subject of the test results with notice and an opportunity to participate in the court hearing.</p> <p>(B) No court may issue an order solely on the basis of anonymous tips or anonymous information. A person who provides information relied upon by a law enforcement agency or solicitor to obtain records under Section 44-29-135(c) shall sign a sworn affidavit setting forth the facts upon which he bases his allegations. This person shall appear and be subject to examination and cross-examination at the hearing to determine whether an order requiring disclosure should be granted.</p> <p>(C) Pleadings pertaining to disclosure of test results must substitute a pseudonym for the true name of the subject of the test. The disclosure to the parties of the subject's true name must be communicated in documents sealed by the court. Court proceedings must be conducted in camera unless the subject of the test results requests a hearing in open court. All files regarding the court proceedings must be sealed unless waived by the subject</p>

SC Title 44 Code §	Code Language
	<p>of the test results.</p> <p>(D) Upon issuance of an order to disclose the test results pursuant to Section 44-29-135(c), the court may impose appropriate safeguards against the unauthorized disclosure of the information including, but not limited to, specifying who may have access to the information, the purposes for which the information must be used, and prohibitions against further disclosure of the information.</p>
§ 44-29-146	<p>Physicians and state agencies exempt from liability for disclosure of persons carrying Human Immunodeficiency Virus; "contact" defined.</p> <p>A physician or state agency identifying and notifying a spouse or known contact of a person having Human Immunodeficiency Virus (HIV) infection or Acquired Immunodeficiency Syndrome (AIDS) is not liable for damages resulting from the disclosure.</p> <p>"Contact" means the exchange of body products or body fluids by sexual acts or percutaneous transmission.</p>
§ 44-29-230	<p>Testing required when health care worker exposed to bloodborne disease.</p> <p>(A) While working with a person or a person's blood or body fluids, if a health care worker or emergency response employee is involved in an incident resulting in possible exposure to bloodborne diseases, and a health care professional based on reasonable medical judgment has cause to believe that the incident may pose a significant risk to the health care worker or emergency response employee, the health care professional may require the person, the health care worker, or the emergency response employee to be tested without his consent.</p> <p>(B) The test results must be given to the health care professional who shall report the results and assure the provision of post-test counseling to the health care worker or emergency response employee, and the person who is tested. The test results also shall be reported to the Department of Health and Environmental Control in a manner prescribed by law.</p> <p>(C) No physician, hospital, or other health care provider may be held liable for conducting the test or the reporting of test results under this section.</p> <p>(D) For purposes of this section:</p> <p>(1) "Person" means a patient at a health care facility or physician's office, an inmate at a state or local correctional facility, an individual under arrest, or an individual in the custody of or being treated by a health care worker or an emergency response employee.</p> <p>(2) "Emergency response employee" means firefighters, law enforcement officers, paramedics, emergency medical technicians, medical residents, medical trainees, trainees of an emergency response employee as defined herein, and other persons, including employees of legally organized and</p>

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	<p>recognized volunteer organizations without regard to whether these employees receive compensation, who in the course of their professional duties respond to emergencies.</p> <p>(3) "Bloodborne diseases" means Hepatitis B or Human Immunodeficiency Virus infection, including Acquired Immunodeficiency Syndrome.</p> <p>(4) "Significant risk" means a finding of facts relating to a human exposure to an etiologic agent for a particular disease, based on reasonable medical judgments given the state of medical knowledge, about the:</p> <ul style="list-style-type: none"> (a) nature of the risk; (b) duration of the risk; (c) severity of the risk; (d) probabilities the disease will be transmitted and will cause varying degrees of harm. <p>(5) "Health care professional" means a physician, an epidemiologist, or infection control practitioner.</p> <p>(6) "Health care worker" means a person licensed as a health care provider under Title 40, a person registered under the laws of this State to provide health care services, an employee of a health care facility as defined in Section 44-7-130(10), or an employee in a physician's office.</p> <p>(E) The cost of any test conducted under this section must be paid by the:</p> <ul style="list-style-type: none"> (1) person being tested; (2) State in the case of indigents; or (3) public or private entity employing the health care worker or emergency response employee if the cost is not paid pursuant to subitems (1) and (2) above.
§ 44-29-240	<p>Protection of health care professionals rendering care; knowledge and disclosure of HIV or HBV status.</p> <p>A person, upon whom an invasive, exposure-prone procedure, as defined by the Department of Health and Environmental Control, is scheduled to be performed, is encouraged to know his HIV antibody, HBsAG, and HBeAg status and disclose the status to the health care professionals rendering care so that precautionary measures may be taken. A person, upon whom an invasive, exposure-prone procedure is scheduled to be performed, who does not know his status, is encouraged to have his blood tested for the presence of HIV or HBV so as to protect the health care professionals rendering care.</p>
§ 44-29-250	<p>Confidentiality of anonymous HIV test results; reporting requirements.</p> <p>Notwithstanding any other provision of this chapter or a regulation promulgated under this chapter, a person who collects and anonymously submits a sample of the person's own body fluid or tissue for Human Immunodeficiency Virus (HIV) infection testing is not required to report a positive test result, and the test results are confidential. However, the person or laboratory performing the test on an anonymous sample shall report a positive HIV infection test result to the Department of Health and Environmental Control, as well as certification to the Department of Health</p>

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	and Environmental Control that counseling options, including community-based resources, and referrals to appropriate medical providers have been made or offered to the positive subject, but the report must not contain any information identifying the subject of the report or any information that may lead to the identification of the subject of the report.

South Carolina Code of Regulations – Chapter 61: Department of Health and Environmental Control

Chapter 61 SCCR	Code Language
61-21	<p>Sexually Transmitted Diseases</p> <p>C. Reporting of sexually transmitted diseases.</p> <p>(1) Any physician or other health professional who diagnoses or treats a case of sexually transmitted disease, and any administrator, superintendent, manager or Infection Control Practitioner of a hospital, dispensary, health care related facility, blood bank, plasma center, or charitable or penal institution in which there is a case of sexually transmitted disease shall report to the Department the case by name, date of birth, address, county of residence, sex, race, the probable date of onset of infection and the name of the physician of record. In addition, the Department may require reporting to the health authorities of the probable risk behavior leading to infection, the probable stage of infection if appropriate and other necessary information according to the form and manner as the Department directs.</p> <p>(2) Each hospital, dispensary, health care related facility, blood bank, plasma center, penal or charitable institution required to report must designate to the Department at least one person, hereinafter referred to as Reporting Coordinator, who must coordinate reporting and will be responsible for ensuring that the reporting requirements of the Department are met. Written inquiries from the Department to physicians, health professionals, Reporting Coordinators, Infection Control Practitioners, and administrators regarding reporting must be answered in writing and must be mailed to the Department within fifteen days.</p> <p>(3) In addition, for purposes of reporting of HIV, a completed confidential disease report form, including the positive HIV test result, is required. For purposes of reporting cases of AIDS, a completed AIDS case report form is required. For other sexually transmitted diseases, reporting is required in the form or manner specified by the Department. All information and reports in connection with persons infected with sexually transmitted diseases shall be kept strictly confidential in accordance with state law.</p> <p>D. Laboratory reporting.</p> <p>Any laboratory performing tests for a sexually transmitted disease shall submit a report of all positive laboratory test results for sexually transmitted diseases to the Department in the form and manner as the Department directs. For purposes of reporting sexually transmitted diseases, the positive test result, the patient's name, the name and address of physician of record, clinic, hospital, or other health care provider submitting the specimen for testing, the date the specimen was received, and the sex and race of the patient shall be reported to the Department in the form and manner that the Department directs. When accompanying the specimen, the age or date of birth of the patient, the patient's address and county of residence must also be reported. All information and reports in connection with test results indicating sexually transmitted disease shall be kept strictly confidential in accordance with state law.</p> <p>E. Use of HIV test reports, AIDS case reports, and other STD reports.</p>

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	<p>The Department may utilize the reports of HIV, AIDS and other STD cases for the following purposes: partner notification services, counseling services, referral for medical management and social services, epidemiologic surveillance, protection of the public health, control of the spread of the disease, and offering laboratory services for monitoring disease progression. To the extent resources are available, the Department may develop cooperatively with the reporting physician or other health professional a plan for providing the above services.</p> <p>F. Verification of HIV test reports, AIDS case reports, other STD reports and Epidemiological Surveillance. For purposes of report verification and epidemiological surveillance, the Department may conduct appropriate follow-up of HIV test reports, AIDS case reports, and other STD reports. Such follow-up may include, but is not limited to, confirmation of HIV or other STD test results, collection and confirmation of other information required to be reported, review of hospital and physician medical records, interviews of physician and other appropriate staff, interviews of patient, interviews of contacts who may have been exposed to HIV. If the patient is incompetent or deceased, the Department may interview the patient's physician, guardian, next of kin, spouse, or contacts, and follow the CDC or the Department protocols for conducting "No Identified Risk" (NIR) investigations.</p> <p>G. Confidentiality. (1) Records kept confidential. All information and records held by the Department or its agents shall be strictly confidential. The information must not be released or made public, upon subpoena or otherwise, except in accordance with Section 44-29-135 and these regulations. Release may be made of medical or epidemiological information to the extent necessary to notify contacts (partner notification) as provided in Section 44-29-90 and 44-29-146. (2) Disclosure to medical personnel to protect health or life of any person. (a) If disclosure or release of STD information is allowed to medical personnel to protect the health or life of any person pursuant to Section 44-29-135(d), that relevant portion of the person's STD record may be released to the person's physician if the physician needs to know the information in order to plan and develop a course of treatment necessary for the treatment of the person's medical condition. Whenever the Department releases confidential, identifying STD information pursuant to this subsection (2)(a), the Department will first make an attempt to obtain the consent of the patient to release the information. If consent cannot be obtained, and the release is made, the Department will make an attempt to inform the patient of what information was released and to whom. (b) When a person who has tested positive for an STD accepts a referral from the Department to a physician and/or health professional for medical care, the Department may provide the STD information to the physician and/or health professional directly involved in the medical care of the patient if the physician and/or health professional has a need to know the information in order to plan and develop a course of treatment necessary for the patient. In the case of a pregnant patient who is referred by the</p>

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	<p>Department to a physician and/or health professional for medical care, the Department may provide the STD information to the physician and/or health professional directly involved in the medical care of the pregnant patient if the physician and/or health professional has a need to know the STD information in order to plan and develop a course of treatment necessary for the pregnant female and/or her newborn(s). Whenever the Department releases confidential, identifying STD information pursuant to this subsection (2)(b), the Department will first make an attempt to obtain the consent of the patient to release the information. If consent cannot be obtained, and the release is made, the Department will make an attempt to inform the patient of what information was released and to whom.</p> <p>(c) The Department may share with health departments located in other states and which are responsible for the control of STD's all information necessary for those health departments to carry out their public health mandates.</p> <p>(d) If a person infected with HIV, Hepatitis B or syphilis informs the Department, or the Department learns, that he/she has, during a period of probable infection, donated or sold blood, semen, tissue, organs or other body fluids determined to be infectious by the Department, the Department may disclose or release the name of the donor only to the entity which collected the infected blood or body product. The information may be given to the collecting entity to protect the recipient and/or the blood or body product supply. The entity which collected the blood or body product must not release to any other person the information identifying the donor provided by the Department and such information must be kept strictly confidential. Whenever the Department releases confidential, identifying STD information pursuant to this subsection (2)(d), the Department will first make an attempt to obtain the consent of the patient to release the information. If consent cannot be obtained, and the release is made, the Department will make an attempt to inform the patient of what information was released and to whom.</p> <p>(3) Notification of Public Schools of minors infected with HIV. When disclosure of a minor's HIV infection is reported to a public school superintendent, school nurse, or other health professional assigned to the public school pursuant to Section 44-29-135(e), the information released must be kept strictly confidential by the school superintendent, school nurse, or other health professional assigned to the public school and should only be revealed to public school personnel who have a bona fide need to know. All persons receiving the information must keep the information strictly confidential. Violation of this regulation may result in imposition of penalties as set forth in Sections 44-1-150 and 44-29-140 South Carolina Code of Laws and other applicable penalties. The method for notification of public schools is contained in Section H.(3)(a).</p> <p>(4) Notification of biological parents, foster parents, persons in loco parentis, adoptive parents or guardians, functioning in a direct supervising role, of the HIV and/or Hepatitis B infected status of minors under age sixteen, mentally retarded persons, or mentally incompetent persons. When in the judgement of the Department or the attending physician, it is necessary to protect the health or well-being of persons listed in (a), (b), or (c) below, or persons serving in a direct supervising role to persons listed in (a), (b), or (c) below</p>

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	<p>or to protect the public health, the Department or the attending physician may inform, if they function in a direct supervising role, biological parents, foster parents, persons in loco parentis, adoptive parents, or guardians of the HIV and/or Hepatitis B infected status of the following persons:</p> <ul style="list-style-type: none"> (a) IV and/or Hepatitis B infected minor under age sixteen, (b) HIV and/or Hepatitis B infected mentally retarded person, or (c) HIV and/or Hepatitis B infected mentally incompetent person. Any disclosure made by the Department shall only be made when in the judgment of the Department it is necessary to protect the health or well-being of the persons listed in (a), (b), or (c) above, or persons serving in a direct supervising role to persons listed in (a), (b) or (c) above, or to protect the public health. <p>If the Department or the attending physician discloses the HIV and/or Hepatitis B infected status of persons listed in (a) through (c) above to any of the persons serving in a direct supervising role, counseling must also be provided. Such counseling should include education regarding modes of transmission, health care needs of the particular person, recommended precautions in handling blood and body fluids and information on available community resources. Whenever the Department releases confidential, identifying STD information pursuant to this subsection 4(a)(b)(c), the Department will first make an attempt to obtain the consent of the patient to release the information. If consent cannot be obtained, and the release is made, the Department will make an attempt to inform the patient of what information was released and to whom.</p> <p>(5) Notification of lay healthcare givers of the HIV and/or Hepatitis B infected status of persons to whom they are providing health care which may result in HIV and/or Hepatitis B exposure.</p> <ul style="list-style-type: none"> (a) The Department or the attending physician may inform a lay healthcare giver who is or soon will be providing health care to an HIV or Hepatitis B infected person of the HIV and/or Hepatitis B infective status of the person to whom the lay healthcare giver is providing health care, if in the opinion of the Department or the attending physician, the nature of the contact resulting from the care: <ul style="list-style-type: none"> (1) poses a significant risk of exposure that may result in HIV and/or Hepatitis B transmission to the lay healthcare giver, and (2) if the Department or the attending physician has reason to believe that the infected person, paraite the Department or physician's encouragement, has not told or will not tell the lay healthcare giver of his HIV and/or Hepatitis B infection. (b) Before notifying the lay healthcare giver, the Department or the attending physician must notify the HIV and/or Hepatitis B infected person that the disclosure will be made and to whom it will be made. If the disclosure is made to the lay healthcare giver the Department or attending physician must notify the HIV and/or Hepatitis B infected person of the disclosure and to whom it was made. When the information is disclosed to the lay healthcare giver, counseling must also be provided. Such counseling must include education regarding health care needs of the infected person and recommended precautions in handling blood and body fluids and the necessity for confidentiality. <p>(6) No access to the Department STD/HIV/AIDS Records. No institution,</p>

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	<p>facility, organization, agency, other entity or person shall have access to the Department STD/HIV/AIDS Records under any circumstances other than those outlined in Section 44-29-135 or Section G of these regulations.</p> <p>L. Prisons and STD/HIV infected prisoners. (1) To the extent resources are available, the Department may provide STD/HIV counseling and testing and educational resources to prisoners upon the reasonable request of any individual prisoner or prison or jail official. When the Department is asked to conduct testing in or for prisons or jails, the Department may require pre-test and post-test counseling to accompany HIV testing conducted by the Department. (2) If a prisoner is suffering from HIV infection, AIDS or any sexually transmitted disease for which there is no cure, the prisoner's medical condition shall not be a reason for further confinement. It is the recommendation of the Department that no prisoner be confined beyond the expiration of his/her sentence simply because he/she is infected with HIV or any other sexually transmitted disease for which there is no cure. When it is known to the prison or jail that a prisoner to be released is infected with HIV, or any other STD upon the release of the infected prisoner, the facility from which the prisoner has been released shall provide the prisoner with the telephone number and address of the local health department of the prisoner's anticipated county of residence. Prior to the release of the prisoner, the prison or jail must also provide the Department of Health and Environmental Control with the name, release date, sex, date of birth, race, and, if available, address and other locating/identifying information concerning the prisoner. The Department may then require the infected prisoner to report for counseling and/or other related services. (3) In order to protect the public health, all prisons and jails should allow during visits prisoners and their sexual partners to possess and use condoms and nonoxynol-9 or other chemical agents recommended by public health authorities. The prison or jail is not required by these regulations to expend public monies to purchase, for either prisoners or visitors, condoms, nonoxynol-9 or other chemical agents recommended by public health authorities.</p> <p>M. Counseling and Testing of Persons Charged with Crimes Involving Needle Use or Prostitution. Any person charged with any crime involving needle use or prostitution may be required by the Department to undergo testing for sexually transmitted diseases, including HIV, and, if infected, shall submit to treatment and counseling. Such testing may be conducted within the discretion of the Department. Counseling should always be offered before and after testing.</p>