

Nebraska

Introduction and Table of Contents

September 19, 2011

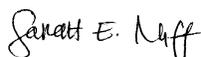
To the Reader:

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)**.

Table of Contents	i
Definitions and Helpful Resources	ii
Quick Reference Guide for Clinicians to Nebraska HIV Testing Laws	iii
Perinatal Quick Reference Guide for Clinicians	iv
State Policies Relating to HIV testing, 2011	NE-1 – NE-30

Definitions and Helpful Resources

September 19, 2011

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>

Nebraska

A Quick Reference Guide for Clinicians to Nebraska HIV Testing Laws

September 19, 2011

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

Informed Consent

- Written informed consent required; shall provide an explanation of HIV infection and the meaning of both positive and negative test results.
- Signing of a separate consent for HIV testing is not required during the time the general consent form for the performance of medical tests or procedures, which informs the person that a test for the presence of HIV infection may be performed and that the person may refuse to have such test performed, is in effect.

Counseling

- Post-test counseling is required with HIV positive test results in cases of occupational exposure.

Provisos of Testing

- **Anonymous**
 - Testing must be made available anonymously.
 - Physicians must inform patients of availability of anonymous testing.
 - Anonymous testing is available at designated anonymous testing sites.
- **Rapid**
 - No specific provisions regarding rapid testing were found.
- **Routine**
 - No specific provisions regarding routine testing were found.

Disclosure

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

Minor/Adolescent Testing

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

Nebraska

Perinatal Quick Reference Guide:

A Guide to Nebraska Perinatal HIV Testing Laws for Clinicians

September 19, 2011

This Perinatal Quick Reference Guide for clinicians is a summary of relevant Nebraska 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 Nebraska 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

Nebraska

State Policies Relating to HIV Testing, 2011

Table of Contents

Reissue Revised Statutes of Nebraska [RRS]

Chapter 20: Civil Rights Page 4-5
Chapter 29: Criminal Procedure..... Pages 6-7
Chapter 43: Infants and Juveniles Page 8
Chapter 71: Public Health and Welfare..... Pages 9-20
Chapter 83: State Institutions Pages 21-22

Nebraska Administrative Code [NAC]

Title 38: Nebraska Athletic Commission..... Page 23
Title 83: Jail Standards Board..... Page 24
Title 178: Communicable Diseases..... Pages 25-27
Title 390: Child Welfare Services..... Pages 28-30

	Policy Category	Type	Section Code(s)
RESTRICTIONS/ MANDATES	Restrictions on use of HIV test	Discrimination on basis of HIV tests prohibited	RRS §20-167 RRS §20-168
	Mandatory testing within the criminal justice system	All inmates, including juveniles	RRS §83-4,161 83 NAC 11.009.01
		Convicted sex offenders upon request of victim	RRS §29-2290
		Potential transmission to victims – victim may request testing of offender	RRS §29-2290
	Mandatory testing outside of the criminal justice system	Occupational exposure – emergency medical services, public safety officers may request testing of source	RRS §71-510
		Occupational exposure - health care providers may request testing of source patient	RRS §71-514.03
		If source patient refuses to consent, the exposed worker may petition court	RRS §71-510 RRS §71-514.03
		Professional boxers and elimination bout contestants	38 NAC 023.11

PRE-TESTING	Mandatory offering of HIV/AIDS information and/or testing	State Department of Health may provide HIV testing services	RRS §71-501.02
		Pre-test explanation of HIV and testing required for informed consent	RRS §71-531
		Testing and education in Native Americans clinics	RRS §71-7617
	Informed consent	Written informed consent required – may be incorporated in general medical consent	RRS §71-531
	Counseling requirements	Post-test counseling must be provided to source patient with positive results in cases of occupational exposure	RRS §71-514.03
		Department of Corrections must provide counseling to sex offenders who test positive	RRS §29-2290
		Department of Health must offer counseling and testing to victims of sex offense upon receiving offender's results	RRS §29-2290
		Mandatory counseling for Child Welfare Services Department wards who test positive	390 NAC 11-002.04D
	Anonymous testing	Anonymous testing available at every State-sponsored testing site	RRS §71-501.02
		Physicians must inform patients of availability of anonymous testing	RRS §71-531(3)
POST-TESTING	Disclosure/confidentiality	HIV test results as confidential	RRS §71-511
		HIV reports as confidential	RRS §71-503.01
		Partner notification	173 NAC 1-006.03
	Disclosure of HIV status of sex offender to victim	RRS §29-2290	
Reporting	Name-based reporting	173 NAC 1-004.01C2 173 NAC 1-004.02C1	
OTHER	Testing of pregnant women and/or newborns	No related laws found	
	Testing of minors/adolescents	Minors may consent to STD services, HIV not explicitly included	RRS §71-503.01
	Rapid HIV testing	No related laws found	RRS §71-504
	Training and education of health	State department responsible for	RRS §71-501.02

care providers	training and education	
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Recommended Resources

Laws of Nebraska: Nebraska Statutes and Constitution

http://uniweb.legislature.ne.gov/LegalDocs/view.php?page=index_statutes

Nebraska Rules and Regulations

<http://www.sos.state.ne.us/business/regsearch/index.cgi>

Nebraska Health and Human Services

<http://www.hhs.state.ne.us/>

Chapter 20: Civil Rights	
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NE Chapter 20 Code §	Code Language
§ 20-167	<p>Discrimination; legislative intent; state agencies; duties</p> <p>It is the intent of the Legislature that no person should be discriminated against on the basis of having taken a human immunodeficiency virus antibody or antigen test.</p> <p>Each agency of state government shall examine policies and practices within its jurisdiction that may intentionally or unintentionally result in discrimination against a person who has taken a human immunodeficiency virus antibody or antigen test or who has been diagnosed as having acquired immunodeficiency syndrome or acquired immunodeficiency syndrome related complex to ascertain the extent and types of discrimination that may exist. Each agency shall identify proposed changes in statutes or agency rules and regulations to remedy discrimination. Each agency shall report its findings to the Legislature on or before December 1, 1988.</p>
§ 20-168	<p>Employment, dwelling, school district, place of public accommodation; discrimination prohibited; civil action; authorized</p> <p>(1) An employer shall not (a) refuse to hire an individual, (b) discharge an individual, or (c) otherwise discriminate against an individual with respect to compensation or terms, conditions, or privileges of employment on the basis that the individual is suffering or is suspected of suffering from human immunodeficiency virus infection or acquired immunodeficiency syndrome.</p> <p>(2) A seller or lessor shall not refuse to sell or lease a dwelling as defined in section 20-310 to an individual on the basis that the individual, a member of the individual's family, or a person who will be residing with the individual is suffering or is suspected of suffering from human immunodeficiency virus infection or acquired immunodeficiency syndrome.</p> <p>(3) A school district shall not deny admission to a student on the basis that the student is suffering or is suspected of suffering from human immunodeficiency virus infection or acquired immunodeficiency syndrome.</p> <p>(4) A place of public accommodation as defined in section 20-133 shall not deny equal access to such public accommodation on the basis that the individual is suffering or is suspected of suffering from human immunodeficiency virus infection or acquired immunodeficiency syndrome.</p> <p>(5) Any individual who has been discriminated against in violation of this section may file a civil action to enforce this section in the district court</p>

NE Chapter 20 Code §	Code Language
	of the county where the discrimination is alleged to have occurred. The remedy granted by this subsection shall be in addition to any other remedy provided by law and shall not be interpreted as denying any other remedy provided by law.
§ 20-169	Individual; threat to health or safety; unable to perform duties; effect Actions otherwise prohibited by subsections (1) and (3) of section 20-168 shall not constitute a violation of the requirements of such section if the individual suffering from or suspected of suffering from human immunodeficiency virus infection or acquired immunodeficiency syndrome poses a direct threat to the health or safety of himself, herself, or other individuals or is unable to perform the duties of the job he or she is applying for or is employed to perform.

Chapter 29: Criminal Procedure

NE Chapter 29 Code §	Code Language
§ 29-2290	<p>Test, counseling, and reports; when required; Department of Correctional Services; Department of Health and Human Services; duties; cost; appeal; effect</p> <p>(1) Notwithstanding any other provision of law, when a person has been convicted of sexual assault pursuant to sections 28-317 to 28-320, sexual assault of a child pursuant to section 28-320.01, or any other offense under Nebraska law when sexual contact or sexual penetration is an element of the offense, the presiding judge shall, at the request of the victim as part of the sentence of the convicted person when the circumstances of the case demonstrate a possibility of transmission of the human immunodeficiency virus, order the convicted person to submit to a human immunodeficiency virus antibody or antigen test. Such test shall be conducted under the jurisdiction of the Department of Correctional Services. The Department of Correctional Services shall make the results of the test available only to the victim, to the parents or guardian of the victim if the victim is a minor or is mentally incompetent, to the convicted person, to the parents or guardian of the convicted person if the convicted person is a minor or mentally incompetent, to the court issuing the order for testing, and to the Department of Health and Human Services.</p> <p>(2) If the human immunodeficiency virus test indicates the presence of human immunodeficiency virus infection, the Department of Correctional Services shall provide counseling to the convicted person regarding human immunodeficiency virus disease and referral to appropriate health care and support services.</p> <p>(3) The Department of Correctional Services shall provide to the Department of Health and Human Services the result of any human immunodeficiency virus test conducted pursuant to this section and information regarding the request of the victim. The Department of Health and Human Services shall notify the victim or the parents or guardian of the victim if the victim is a minor or mentally incompetent and shall make available to the victim counseling and testing regarding human immunodeficiency virus disease and referral to appropriate health care and support services.</p> <p>(4) The cost of testing under this section shall be paid by the convicted person tested unless the court has determined the convicted person to be indigent.</p> <p>(5) Filing of a notice of appeal shall not automatically stay an order that the convicted person submit to a human immunodeficiency virus test.</p> <p>(6) For purposes of this section:</p> <ul style="list-style-type: none"> (a) Convicted shall include adjudicated under juvenile proceedings; (b) Convicted person shall include a child adjudicated of an offense described in subsection (1) of this section; and

NE Chapter 29 Code §	Code Language
	<p>(c) Sentence shall include a disposition under juvenile proceedings.</p> <p>(7) The Department of Correctional Services, in consultation with the Department of Health and Human Services, shall adopt and promulgate rules and regulations to carry out this section.</p>

Chapter 43: Infants and Juveniles

NE Chapter 43 Code	Code Language
§ 43-146.17	Heir of adopted person; access to information; when; fee (2) The following information relating to an adopted person shall not be released to the heir of such person under this section: (a) Tests conducted for the human immunodeficiency virus or acquired immunodeficiency syndrome; (b) the revocation of a license to practice medicine in the State of Nebraska; (c) child protective services reports or records; (d) adult protective services reports or records; (e) information from the central register of child protection cases and the Adult Protective Services Central Registry; or (f) law enforcement investigative reports.

Chapter 71: Public Health and Welfare
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NE Chapter 71 Code §	Code Language
§ 71-501	<p>Contagious diseases; local public health department; county board of health; powers and duties</p> <p>(1) The local public health department as defined in section 71-1626 or the county board of a county that has not established or joined in the establishment of a local public health department shall make and enforce regulations to prevent the introduction and spread of contagious, infectious, and malignant diseases in the county or counties under its jurisdiction.</p> <p>(2) The county board of a county that has not established or joined in the establishment of a local public health department shall establish a county board of health consisting of three members: The sheriff, who shall be chairperson and quarantine officer; a physician who resides permanently in the county, but if the county has no resident physician, then one conveniently situated, who shall be medical adviser, and who shall be chosen by the county board; and the county clerk, who shall be secretary. The county board may pay the chairperson of the county board of health a salary for such services not to exceed fifty dollars per month, as fixed by the county board.</p> <p>(3) The local public health department or the county board of health shall make rules and regulations to safeguard the health of the people and prevent nuisances and insanitary conditions and shall enforce and provide penalties for the violation of such rules and regulations for the county or counties under its jurisdiction except for incorporated cities and villages. If the local public health department or the county board of health fails to enact such rules and regulations, it shall enforce the rules and regulations adopted and promulgated by the Department of Health and Human Services Regulation and Licensure.</p>
§ 71-501.02	<p>Acquired immunodeficiency syndrome program; department; powers</p> <p>The Department of Health and Human Services may establish and administer a statewide acquired immunodeficiency syndrome program for the purpose of providing education, prevention, detection, and counseling services to protect the public health. In order to implement the program, the department may:</p> <p>(1) Apply for, receive, and administer federal and other public and private funds and contract for services, equipment, and property as necessary to use such funds for the purposes specified in section 71-501.01 and this section;</p> <p>(2) Provide education and training regarding acquired immunodeficiency syndrome and its related diseases and conditions to the general public and to health care providers. The department may charge fees based on</p>

NE Chapter 71 Code §	Code Language
	<p>administrative costs for such services. Any fees collected shall be deposited in the state treasury and shall be credited to the Department of Health and Human Services Cash Fund;</p> <p>(3) Provide resource referrals for medical care and social services to persons affected by acquired immunodeficiency syndrome and its related diseases and conditions;</p> <p>(4) Contract or provide for voluntary, anonymous, or confidential screening, testing, and counseling services. All sites providing such services pursuant to a contract with the department shall provide services on an anonymous basis if so requested by the individual seeking such services. The department may charge and permit its contractors to charge an administrative fee or may request donations to defer the cost of the services but shall not deny the services for failure to pay any administrative fee or for failure to make a donation;</p> <p>(5) Cooperate with the Centers for Disease Control and Prevention of the Public Health Service of the United States Department of Health and Human Services or its successor for the purposes of research into and investigation of acquired immunodeficiency syndrome and its related diseases and conditions; and</p> <p>(6) To the extent funds are available, offer services that are culturally and language specific upon request to persons identified as having tested positive for the human immunodeficiency virus infection. Such services shall include, but not be limited to, posttest counseling, partner notification, and such early intervention services as case management, behavior modification and support services, laboratory quantification of lymphocyte subsets, immunizations, Mantoux testing for tuberculosis, prophylactic treatment, and referral for other medical and social services.</p>
§ 71-503	<p>Contagious, infectious, or other disease or illness; poisoning; duty of attending physician; violation; penalty</p> <p>All attending physicians shall report to the official local health department or the Department of Health and Human Services Regulation and Licensure promptly, upon the discovery thereof, the existence of any contagious or infectious diseases and such other disease, illness, or poisoning as the Department of Health and Human Services Regulation and Licensure may from time to time specify. Any attending physician, knowing of the existence of any such disease, illness, or poisoning, who fails promptly to report the same in accordance with this section, shall be deemed guilty of a Class V misdemeanor for each offense.</p>
§ 71-503.01	<p>Reports required; confidentiality; limitations on use; immunity.</p> <p>Whenever any statute of the state, any ordinance or resolution of a municipal corporation or political subdivision enacted pursuant to statute, or any rule or regulation of an administrative agency adopted and</p>

NE Chapter 71 Code §	Code Language
	<p>promulgated pursuant to statute requires medical practitioners or other persons to report cases of communicable diseases, including sexually transmitted diseases and other reportable diseases, illnesses, or poisonings or to give notification of positive laboratory findings to the Department of Health and Human Services Regulation and Licensure or any county or city board of health, local health department established pursuant to sections 71-1626 to 71-1636, city health department, local health agency, or state or local public official exercising the duties and responsibilities of any board of health or health department, such reports or notifications and the resulting investigations shall be confidential except as provided in this section, shall not be subject to subpoena, and shall be privileged and inadmissible in evidence in any legal proceeding of any kind or character and shall not be disclosed to any other department or agency of the State of Nebraska.</p> <p>In order to further the protection of public health, such reports and notifications may be disclosed by the Department of Health and Human Services Regulation and Licensure, the official local health department, and the person making such reports or notifications to the Centers for Disease Control and Prevention of the Public Health Service of the United States Department of Health and Human Services or its successor in such a manner as to ensure that the identity of any individual cannot be ascertained. To further protect the public health, the Department of Health and Human Services Regulation and Licensure, the official local health department, and the person making the report or notification may disclose to the official state and local health departments of other states, territories, and the District of Columbia such reports and notifications, including sufficient identification and information so as to ensure that such investigations as deemed necessary are made.</p> <p>The appropriate board, health department, agency, or official may: (1) Publish analyses of such reports and information for scientific and public health purposes in such a manner as to ensure that the identity of any individual concerned cannot be ascertained; (2) discuss the report or notification with the attending physician; and (3) make such investigation as deemed necessary.</p> <p>Any medical practitioner, any official health department, the Department of Health and Human Services Regulation and Licensure, or any other person making such reports or notifications shall be immune from suit for slander or libel or breach of privileged communication based on any statements contained in such reports and notifications.</p>
§ 71-504	<p>Sexually transmitted diseases; minors; treatment without consent of parent; expenses.</p> <p>The Director of Health and Human Services, the Director of Regulation and Licensure, or local director of health, if a physician, or his or her agent, or any physician, upon consultation by any person as a patient, shall, with the consent of such person who is hereby granted the right of</p>

NE Chapter 71 Code §	Code Language
	<p>giving such consent, make or cause to be made a diagnostic examination for sexually transmitted diseases and prescribe for and treat such person for sexually transmitted diseases including prophylactic treatment for exposure to sexually transmitted diseases whenever such person is suspected of having a sexually transmitted disease or contact with anyone having a sexually transmitted disease. All such examinations and treatment may be performed without the consent of or notification to the parent, parents, guardian, or any other person having custody of such person. In any such case, the Director of Health and Human Services, the Director of Regulation and Licensure, or local director of health, if a physician, or his or her agent, or the physician shall incur no civil or criminal liability by reason of having made such diagnostic examination or rendered such treatment, but such immunity shall not apply to any negligent acts or omissions. The Director of Health and Human Services or local director of health, if a physician, or his or her agent, or the physician shall incur no civil or criminal liability by reason of any adverse reaction to medication administered if reasonable care is taken to elicit from any such person who is under twenty years of age any history of sensitivity or previous adverse reaction to medication. Parents shall be liable for expenses of such treatment to minors under their custody. In the event such person is affected with a sexually transmitted disease, the Director of Regulation and Licensure or local director of health may cause an interview of the person by a sexually transmitted disease investigator to secure the names of sexual contacts so that appropriate investigation can be made in an effort to locate and eliminate sources of infection.</p>
§ 71-507	<p>Terms, defined</p> <p>For purposes of sections 71-507 to 71-513:</p> <p>(1) Alternate facility means a facility other than a health care facility that receives a patient transported to the facility by an emergency services provider;</p> <p>(2) Department means the Department of Health and Human Services Regulation and Licensure;</p> <p>(3) Designated physician means the physician representing the emergency services provider as identified by name, address, and telephone number on the significant exposure report form. The designated physician shall serve as the contact for notification in the event an emergency services provider believes he or she has had significant exposure to an infectious disease or condition. Each emergency services provider shall designate a physician as provided in subsection (2) of section 71-509;</p> <p>(4) Emergency services provider means an out-of-hospital emergency care provider certified pursuant to the Emergency Medical Services Act, a sheriff, a deputy sheriff, a police officer, a state highway patrol officer, a funeral director, a paid or volunteer firefighter, a school district employee,</p>

NE Chapter 71 Code §	Code Language
	<p>and a person rendering emergency care gratuitously as described in section 25-21,186;</p> <p>(5) Funeral director means a person licensed under section 71-1302 or an employee of such a person with responsibility for transport or handling of a deceased human;</p> <p>(6) Funeral establishment means a business licensed under section 71-1327;</p> <p>(7) Health care facility has the meaning found in sections 71-419, 71-420, 71-424, and 71-429 or any facility that receives patients of emergencies who are transported to the facility by emergency services providers;</p> <p>(8) Infectious disease or condition means hepatitis B, hepatitis C, meningococcal meningitis, active pulmonary tuberculosis, human immunodeficiency virus, diphtheria, plague, hemorrhagic fevers, rabies, and such other diseases as the department may by rule and regulation specify;</p> <p>(9) Patient means an individual who is sick, injured, wounded, deceased, or otherwise helpless or incapacitated;</p> <p>(10) Patient's attending physician means the physician having the primary responsibility for the patient as indicated on the records of a health care facility;</p> <p>(11) Provider agency means any law enforcement agency, fire department, emergency medical service, funeral establishment, or other entity which employs or directs emergency services providers or public safety officials;</p> <p>(12) Public safety official means a sheriff, a deputy sheriff, a police officer, a state highway patrol officer, a paid or volunteer firefighter, a school district employee, and any civilian law enforcement employee or volunteer performing his or her duties, other than those as an emergency services provider;</p> <p>(13) Responsible person means an individual who has been designated by an alternate facility to carry out the facility's responsibilities under sections 71-507 to 71-513. A responsible person may be designated on a case-by-case basis;</p> <p>(14) Significant exposure means a situation in which the body fluids, including blood, saliva, urine, respiratory secretions, or feces, of a patient or individual have entered the body of an emergency services provider or public safety official through a body opening including the mouth or nose, a mucous membrane, or a break in skin from cuts or abrasions, from a contaminated needlestick or scalpel, from intimate respiratory contact, or</p>

NE Chapter 71 Code §	Code Language
	<p>through any other situation when the patient's or individual's body fluids may have entered the emergency services provider's or public safety official's body or when an airborne pathogen may have been transmitted from the patient or individual to the emergency services provider or public safety official; and</p> <p>(15) Significant exposure report form means the form used by the emergency services provider to document information necessary for notification of significant exposure to an infectious disease or condition.</p>
§ 71-509	<p>Health care facility or alternate facility; emergency services provider; significant exposure; completion of form; reports required; tests; notification; costs</p> <p>(1) If a health care facility or alternate facility determines that a patient treated or transported by an emergency services provider has been diagnosed or detected with an infectious airborne disease, the health care facility or alternate facility shall notify the department as soon as practical but not later than forty-eight hours after the determination has been made. The department shall investigate all notifications from health care facilities and alternate facilities and notify as soon as practical the physician medical director of each emergency medical service with an affected out-of-hospital emergency medical services provider employed by or associated with the service, the fire chief of each fire department with an affected firefighter employed by or associated with the department, the head of each law enforcement agency with an affected peace officer employed by or associated with the agency, the funeral director of each funeral establishment with an affected individual employed by or associated with the funeral establishment, and any emergency services provider known to the department with a significant exposure who is not employed by or associated with an emergency medical service, a fire department, a law enforcement agency, or a funeral establishment. Notification of affected individuals shall be made as soon as practical.</p> <p>(2) Whenever an emergency services provider believes he or she has had a significant exposure while acting as an emergency services provider, he or she may complete a significant exposure report form. A copy of the completed form shall be given by the emergency services provider to the health care facility or alternate facility, to the emergency services provider's supervisor, and to the designated physician.</p> <p>(3) Upon receipt of the significant exposure form, if a patient has been diagnosed during the normal course of treatment as having an infectious disease or condition or information is received from which it may be concluded that a patient has an infectious disease or condition, the health care facility or alternate facility receiving the form shall notify the designated physician pursuant to subsection (5) of this section. If the patient has not been diagnosed as having an infectious disease or condition and upon the request of the designated physician, the health</p>

NE Chapter 71 Code §	Code Language
	<p>care facility or alternate facility shall request the patient's attending physician or other responsible person to order the necessary diagnostic testing of the patient to determine the presence of an infectious disease or condition. Upon such request, the patient's attending physician or other responsible person shall order the necessary diagnostic testing subject to section 71-510. Each health care facility shall develop a policy or protocol to administer such testing and assure confidentiality of such testing.</p> <p>(4) Results of tests conducted under this section and section 71-510 shall be reported by the health care facility or alternate facility that conducted the test to the designated physician and to the patient's attending physician, if any.</p> <p>(5) Notification of the patient's diagnosis of infectious disease or condition, including the results of any tests, shall be made orally to the designated physician within forty-eight hours of confirmed diagnosis. A written report shall be forwarded to the designated physician within seventy-two hours of confirmed diagnosis.</p> <p>(6) Upon receipt of notification under subsection (5) of this section, the designated physician shall notify the emergency services provider of the exposure to infectious disease or condition and the results of any tests conducted under this section and section 71-510.</p> <p>(7) The notification to the emergency services provider shall include the name of the infectious disease or condition diagnosed but shall not contain the patient's name or any other identifying information. Any person receiving such notification shall treat the information received as confidential and shall not disclose the information except as provided in sections 71-507 to 71-513.</p> <p>(8) The provider agency shall be responsible for the costs of diagnostic testing required under this section and section 71-510, except that if a person renders emergency care gratuitously as described in section 25-21,186, such person shall be responsible for the costs.</p> <p>(9) The patient's attending physician shall inform the patient of test results for all tests conducted under such sections.</p>
§ 71-510	<p>Emergency services provider; public safety official; significant exposure; testing; conditions</p> <p>(1) The patient or individual shall be informed that he or she has the right to consent to the test for presence of an infectious disease or condition and that if the patient or individual refuses the test, such refusal will be communicated to the emergency services provider or public safety official.</p> <p>(2) If the patient or individual is unconscious or incapable of signing an informed consent form, the consent may be obtained from the patient's or individual's next of kin or legal guardian.</p>

NE Chapter 71 Code §	Code Language
	<p>(3) If an emergency services provider has a significant exposure which, in the opinion of the designated physician, could involve the transmission of hepatitis B, hepatitis C, or human immunodeficiency virus, the patient's attending physician shall initiate the necessary diagnostic blood tests of the patient. If the patient or patient's representative refuses to grant consent for such test and a sample of the patient's blood is available, the blood shall be tested for hepatitis B, hepatitis C, or human immunodeficiency virus. If the patient or patient's guardian refuses to grant consent and a sample of the patient's blood is not available, the patient's refusal shall be communicated to the designated physician who shall inform the emergency services provider. The emergency services provider may petition the district court for an order mandating that the test be performed.</p> <p>(4) If a public safety official believes he or she has had a significant exposure while performing his or her duties, other than those as an emergency services provider, which, in the opinion of a physician, could involve exposure to an infectious disease or condition, the public safety official or the provider agency which employs or directs him or her may (a) request the individual who may have transmitted the infectious disease or condition to consent to having the necessary diagnostic blood tests performed or (b) if the individual refuses to consent to such tests, petition the district court for an order mandating that the necessary diagnostic blood tests of such individual be performed.</p> <p>(5) If a patient or individual is deceased, no consent shall be required to test for the presence of an infectious disease or condition.</p>
§ 71-511	<p>Information or test; confidentiality</p> <p>(1) Information concerning any patient, individual, or test results obtained under sections 71-507 to 71-513 shall be maintained as confidential by the health care facility or alternate facility that received or tested the patient or individual, the designated physician, the patient's attending physician, the emergency services provider, the public safety official, and the provider agency except as provided by the Health Care Facility Licensure Act and sections 71-503.01 and 71-507 to 71-513 and the rules and regulations adopted and promulgated pursuant to such act and sections. Such information shall not be made public upon subpoena, search warrant, discovery proceedings, or otherwise except as provided by such act and sections.</p> <p>(2) The information described in subsection (1) of this section may be released with the written consent of the patient or individual or, if the patient or individual is deceased or incapable of giving informed consent, with the written consent of his or her next of kin, legal guardian, or personal representative of his or her estate.</p>
§ 71-513	Immunity from liability; when

NE Chapter 71 Code §	Code Language
	<p>Any health care facility, provider agency, or agent, employee, administrator, physician, or other representative of such health care facility or provider agency who in good faith provides or fails to provide notification, testing, or other action as required by sections 71-507 to 71-513 shall have immunity from any liability, either criminal or civil, that might result by reason of such action or inaction.</p>
§ 71-514.02	<p>Health care providers; terms, defined.</p> <p>For purposes of sections 71-514.01 to 71-514.05:</p> <p>(1) Health care provider means a person who provides care to a patient which is designed to improve the status of his or her health whether this care is rendered in the hospital or community setting and whether the provider is paid or voluntary. Health care provider does not mean an emergency services provider as defined in section 71-507;</p> <p>(2) Infectious disease or condition means hepatitis B, hepatitis C, meningococcal meningitis, active pulmonary tuberculosis, human immunodeficiency virus, and such other diseases as the Department of Health and Human Services Regulation and Licensure may from time to time specify;</p> <p>(3) Patient means an individual who is sick, injured, wounded, or otherwise helpless or incapacitated;</p> <p>(4) Provider agency means any health care facility or agency which is in the business of providing health care services; and</p> <p>(5) Significant exposure to blood or other body fluid means a specific eye, mouth, other mucous membrane, nonintact skin, or parenteral contact with blood or other materials known to transmit infectious diseases that results from providing care.</p>
§ 71-514.03	<p>Health care providers; significant exposure to blood or body fluid; procedure; cost; restriction</p> <p>(1) If a health care provider has a significant exposure to the blood or body fluid of a patient as determined and documented by a designated representative of the provider agency according to a written protocol:</p> <p>(a) The patient shall be informed that he or she has the right to consent to the diagnostic testing of his or her body fluid for presence of an infectious disease or condition and that if the patient refuses to grant consent, such refusal shall be communicated to the health care provider;</p> <p>(b) If the patient is unconscious or incapable of signing an informed consent form, the consent may be obtained from the patient's next of kin or legal guardian;</p> <p>(c) If the patient or patient's next of kin or legal guardian refuses to grant consent for such testing and a sample of the patient's blood or</p>

NE Chapter 71 Code §	Code Language
	<p>other body fluid is available, the sample shall be tested for the presence of infectious disease or condition. If an available sample of blood or other body fluid is tested without consent, the patient or patient's next of kin or legal guardian shall be notified that the available sample is being tested and informed of the purpose of the test and test results. If the human immunodeficiency virus test result is positive, the health care provider or provider agency shall refer the patient for posttest counseling. If the patient or patient's guardian refuses to grant consent and a sample of the patient's blood or other body fluid is not available, the health care provider or provider agency may petition the district court for an order mandating that the testing be performed; or</p> <p>(d) If a patient dies without the opportunity to consent to such testing, testing for the presence of an infectious disease or condition shall be conducted.</p> <p>(2) The provider agency shall be responsible for the cost of such diagnostic testing.</p> <p>(3) Routine drawing of a sample of blood or other body fluid for the purpose of testing for infectious disease or conditions without obtaining consent shall be prohibited.</p>
§ 71-531	<p>Test; written informed consent required; anonymous testing; exemptions</p> <p>(1) (a) No person may be tested for the presence of the human immunodeficiency virus infection unless he or she has given written informed consent for the performance of such test. The written informed consent shall provide an explanation of human immunodeficiency virus infection and the meaning of both positive and negative results.</p> <p>(b) If a person signs a general consent form for the performance of medical tests or procedures which informs the person that a test for the presence of the human immunodeficiency virus infection may be performed and that the person may refuse to have such test performed, the signing of an additional consent for the specific purpose of consenting to a test related to human immunodeficiency virus is not required during the time in which the general consent form is in effect.</p> <p>(2) If a person is unable to provide consent, the person's legal representative may provide consent. If the person's legal representative cannot be located or is unavailable, a health care provider may authorize the test when the test results are necessary for diagnostic purposes to provide appropriate medical care.</p> <p>(3) A person seeking a human immunodeficiency virus test shall have the right to remain anonymous. A health care provider shall confidentially refer such person to a site which provides anonymous testing.</p> <p>(4) This section shall not apply to:</p>

NE Chapter 71 Code §	Code Language
	<p>(a) The performance by a health care provider or a health facility of a human immunodeficiency virus test when the health care provider or health facility procures, processes, distributes, or uses a human body part for a purpose specified under the Uniform Anatomical Gift Act and such test is necessary to assure medical acceptability of such gift for the purposes intended;</p> <p>(b) The performance by a health care provider or a health facility of a human immunodeficiency virus test when such test is performed with the consent and written authorization of the person being tested and such test is for insurance underwriting purposes, written information about the human immunodeficiency virus is provided, including, but not limited to, the identification and reduction of risks, the person is informed of the result of such test, and when the result is positive, the person is referred for posttest counseling;</p> <p>(c) The performance of a human immunodeficiency virus test by licensed medical personnel of the Department of Correctional Services when the subject of the test is committed to such department. Posttest counseling shall be required for the subject if the test is positive. A person committed to the Department of Correctional Services shall be informed by the department (i) if he or she is being tested for the human immunodeficiency virus, (ii) that education shall be provided to him or her about the human immunodeficiency virus, including, but not limited to, the identification and reduction of risks, and (iii) of the test result and the meaning of such result;</p> <p>(d) Human immunodeficiency virus home collection kits licensed by the federal Food and Drug Administration; or</p> <p>(e) The performance of a human immunodeficiency virus test performed pursuant to section 29-2290 or sections 71-507 to 71-513 or 71-514.01 to 71-514.05.</p>
§ 71-532	<p>Test results reportable; manner</p> <p>The Department of Health and Human Services Regulation and Licensure shall adopt and promulgate rules and regulations which make the human immunodeficiency virus infection reportable by name in the same manner as communicable diseases under section 71-502.</p>
§ 71-7617	<p>Contracts to provide educational and public health services; Department of Health and Human Services Regulation and Licensure; duties.</p> <p>The Department of Health and Human Services Regulation and Licensure shall contract with the health clinics of Nebraska's federally recognized Native American tribes, Indian health organizations, or other public health organizations that have a substantial Native American clientele to provide educational and public health services targeted to Native American populations. The following educational and public health services may be considered by the department for such contracts:</p> <p>(9) Tests and education for acquired immunodeficiency syndrome and</p>

NE Chapter 71 Code §	Code Language
	other sexually transmitted diseases;

Chapter 83: State Institutions	
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NE Chapter 83 Code §	Code Language
§ 83-4,159	<p>Health care personnel and clinics; requirements</p> <p>(1) In assigning health care staff to the correctional facilities under the control of the department, the medical director shall ensure that each facility has at least one designated medical doctor on call at all times and that each facility housing more than five hundred inmates has at least one full-time medical doctor assigned to that facility as his or her primary employment location.</p> <p>(2) The medical director shall establish an acute care clinic in each of the correctional facilities and ensure that each clinic is staffed by at least one medical doctor, physician assistant, or advanced practice registered nurse practicing under and in accordance with his or her respective certification act.</p> <p>(3) The medical director shall establish chronic care clinics to provide health care services to inmates with chronic disease conditions, including diabetes and hypertension.</p> <p>(4) The medical director shall establish a human immunodeficiency virus infection and acquired immunodeficiency syndrome chronic care clinic which shall provide for the relevant treatment, counseling, and education of inmates who are known to be infected with the human immunodeficiency virus.</p>
§ 83-4,161	<p>Communicable diseases; medical treatment protocols</p> <p>In developing medical treatment protocols for the clinics, the medical director shall define the circumstances under which chronically ill inmates should return to the chronic care clinics for check-ups and when appointments should be made for chronically ill inmates to next be examined by health care staff. In developing and implementing medical treatment protocols for clinics for the detection and treatment of communicable diseases, the medical director shall ensure that the medical treatment protocols include:</p> <p>(1) Provisions allowing for the routine immunization against communicable diseases of all inmates upon entering the custody of the department;</p> <p>(2) Provisions requiring each inmate to be screened for communicable diseases, including (a) human immunodeficiency virus, (b) hepatitis A virus, (c) hepatitis B virus, (d) hepatitis C virus, (e) tuberculosis, and (f) sexually transmitted diseases, when the inmate enters into the custody of the department;</p> <p>(3) Provisions requiring each inmate to be screened for (a) human immunodeficiency virus, unless previously tested positive, (b) hepatitis B virus, unless previously tested positive, (c) hepatitis C virus, unless previously tested positive, (d) tuberculosis, unless tested within the immediately preceding year or previously tested positive, and (e)</p>

NE Chapter 83 Code §	Code Language
	<p>sexually transmitted diseases, when the inmate leaves the custody of the department. No such screening shall be conducted without inmate consent;</p> <p>(4) Provisions requiring any inmate in the custody of the department found to be infected with any of the diseases referenced in subdivision (2) of this section, when medically indicated, to be immediately referred to an infectious disease specialist for appropriate treatment;</p> <p>(5) Provisions describing in detail those circumstances when it is medically desirable, because of risk to other noninfected inmates, to segregate, on an individual basis, any inmate found to be infected with the human immunodeficiency virus and also describing those circumstances when there is no longer a perceived medical need to continue the segregation of such an inmate;</p> <p>(6) Provisions requiring that all health care staff who provide health care services be screened for communicable diseases, including (a) human immunodeficiency virus, (b) hepatitis A virus, (c) hepatitis B virus, and (d) hepatitis C virus, upon their entry into the employment of the department, and that all health care staff also be screened annually for tuberculosis; and</p> <p>(7) Provisions allowing for employees of the department who come into immediate personal contact with the inmates to be immunized for hepatitis B virus.</p>

**Nebraska Administrative Code – Title 38: Nebraska Athletic Commission,
Chapter 23: Health and Safety**

38 NAC 23	Code Language
023.11	<p>Health and Safety</p> <p>All applicants for a professional boxers and elimination bout contestants license must submit at the time of application for initial licensure results of negative tests for the HIV Virus, Hepatitis C Antibody, and Hepatitis B Virus. Negative test results for the HIV Virus, Hepatitis C Antibody, and Hepatitis B Virus must also be submitted by such licensees within 15 days of license renewal, or as otherwise directed by the Commission. The testing for the HIV Virus, Hepatitis C Antibody and Hepatitis B Virus may be conducted at a certified laboratory of his/her choice. Failure to produce the original or certified laboratory test results to the Commission in a timely manner will result in the ineligibility of the applicant to participate. The applicant is responsible for securing and paying for all medical testing.</p>

**Nebraska Administrative Code – Law Enforcement and Criminal Justice –
Title 83: Jail Standards Board – Standards for Juvenile Detention Facilities**

83 NAC 11	Code Language
009	Medical Screening. Medical screening shall be performed on all juveniles upon admission to the facility. The findings shall be recorded on a printed form approved by the facility physician. The medical screening shall include, at a minimum, the following:
009.01	Current illness and health problems, including dental problems, sexually transmitted diseases and other infectious diseases;

Nebraska Department of Health and Human Services Regulation and Licensure – Title 173: Communicable Diseases, Chapter 1: Reporting and Control of Communicable Diseases

173 NAC 1	Code Language
1-002	WHO REPORTS:
1-002.01	<p>Health Care Providers:</p> <p>Physicians and hospitals shall make reports of communicable diseases and poisonings as described in 173 NAC 1-003, 173 NAC 1-004.01 and 173 NAC 1-005; unless a report is made under 172 NAC 1-002.01A or 1-002.01B.</p>
1-002.01A	<p>Reporting by Physician Assistants, Advanced Practice Registered Nurses, and Certified Nurse Midwives:</p> <p>A physician assistant, advanced practice registered nurse, or certified nurse midwife may make any of the reports of communicable diseases or poisoning required by 173 NAC 1 in lieu of the physician making the report.</p>
1-002.01B	<p>Reporting Lead Analysis:</p> <p>If a laboratory performing lead analysis provides a report containing the required information to the department, the physician and hospital are exempt from 173 NAC 1-002.01.</p>
1-002.02	<p>Laboratories:</p> <p>Laboratories shall make reports as described in 173 NAC 1-003, 173 NAC 1-004.02 and 173 NAC 1-005.</p>
1-003	<p>REPORTABLE DISEASES, POISONINGS AND ORGANISMS: LISTS AND FREQUENCY OF REPORTS:</p> <p>The following diseases, poisonings and organisms are declared to be communicable or dangerous or both to the public. Incidents of diseases, poisonings and organisms shall be reported as described in 173 NAC 1-003.01 through 003.03, 173 NAC 1-004 and 173 NAC 1-005.</p>
1-003.02	<p>Reports Within Seven Days</p> <p>The following diseases, poisonings and organisms shall be reported within seven days of detection or diagnosis:</p> <p>Acquired Immunodeficiency Syndrome (AIDS), as described in 1-004.01C2 and 1-004.02C1;</p> <p>Human Immunodeficiency Virus infection, as described in 1-004.01C2 and 1-004.02C1;</p>

173 NAC 1	Code Language
1-004	METHODS OF REPORTING:
1-004.01C2	<p>Reporting HIV Disease and AIDS</p> <p>Health care providers shall make HIV disease and AIDS reports by postal service or telephone. Adult cases of AIDS and HIV disease (patients >13 years of age at time of diagnosis) shall be submitted on or include the same information as Attachment C, attached hereto and incorporated in these regulations by this reference. Pediatric cases of AIDS and HIV disease (patients <13 years of age at time of diagnosis) and perinatally exposed HIV cases shall be submitted on or include the same information as Attachment D, attached hereto and incorporated in these regulations by this reference. AIDS and HIV case reports are required from health care providers responsible for:</p> <ol style="list-style-type: none"> 1. Treating or diagnosing a person with HIV-1 or HIV-2 disease, based on the laboratory tests listed in 173 NAC 1-004.02C1 items 1. a–e, as being definitive for HIV infection, or based on clinical criteria, as outlined in the National Centers for Disease Control's (CDC) most recent case definition for HIV; or 2. Treating or diagnosing a person with AIDS as outlined in CDC's most recent case definition for AIDS, or 3. Providing medical care to a pregnant woman with HIV disease, or 4. Providing medical care to a baby under 19 months of age born to a woman with HIV disease (perinatally HIV exposed). The diagnosis of HIV infection or determination of noninfection is determined by CDC's most recent case definition for HIV.
1-004.02C1	<p>Laboratories</p> <p>For the purposes of reporting AIDS and HIV, the laboratory reporting requirement applies as follows:</p> <ol style="list-style-type: none"> 1. A laboratory analyzing samples for any of the tests as listed below, shall report all of the following results: <ol style="list-style-type: none"> a. A positive result on a confirmatory test for HIV antibody (e.g. Western blot or immunofluorescence antibody test, usually preceded by a positive screening test for HIV antibody, e.g. repeatedly reactive enzyme immunoassay); b. An indeterminate result on a confirmatory test for HIV antibody (e.g. Western blot or immunofluorescence antibody test, usually preceded by a positive screening test for HIV antibody, e.g. repeatedly reactive enzyme immunoassay); c. Quantitative HIV RNA, detectable or below detectable level; d. Positive result on any of the following HIV virologic tests: <ol style="list-style-type: none"> (1) Qualitative HIV nucleic acid (DNA or RNA) detection [e.g. DNA polymerase chain reaction (PCR)]; (2) HIV p24 antigen test, including neutralization assay; (3) HIV isolation (viral culture). e. CD4 counts less than 800 per microliter (report CD4 percentage if available).
1-006	CONTROL MEASURES FOR COMMUNICABLE DISEASES:

173 NAC 1	Code Language
	<p>For the information of the public, the latest editions of these publications are used as a reference by the Nebraska Department of Health and Human Services Regulation and Licensure, approved local full-time public health service and physicians in the control of communicable diseases: "Control of Communicable Diseases Manual", published by the American Public Health Association, 800 I Street NW, Washington, D.C. 20001-3710 and disease-specific recommendations of the Centers for Disease Control and Prevention, United States Department of Health and Human Services, as printed in the "Morbidity and Mortality Weekly Report."</p>
1-006.03	<p>Partner Identification and Notification</p> <p>1-006.03A. In order to protect the public's health, when an individual is tested and found to have HIV disease or AIDS, the Nebraska Department of Health and Human Services Regulation and Licensure or approved local full-time public health service shall conduct partner notification activities as outlined in Nebraska Department of Health and Human Services Regulation and Licensure or approved local full-time public health service protocol.</p> <p>1-006.03B. "Partner" is defined as any individual, including a spouse, who has shared needles, syringes or drug paraphernalia or who has had sexual contact with an HIV infected individual. "Spouse" is defined as any individual who is the marriage partner of that person at any time within the ten-year period prior to the diagnosis of HIV disease.</p>
1-008	<p>SEXUALLY TRANSMITTED DISEASES:</p> <p>For the purpose of implementing Neb. Rev. Stat. Section 71-502.01, sexually transmitted diseases shall include, but not be limited to, the following diseases:</p> <p>9. Human Immunodeficiency Virus (HIV) infection;</p>
1-009	<p>SIGNIFICANT EXPOSURE TO INFECTIOUS DISEASE OR CONDITION</p>
1-009.01	<p>Definition:</p> <p>For the purpose of implementing Neb. Rev. Stat. Sections 71-507(5) and 71-514.02(2), infectious disease or condition means:</p> <p>5. Human immunodeficiency virus infection;</p>

Nebraska Health and Human Services Manual – Title 390: Child Welfare Services
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390 NAC 11-000	Code Language
11-002.04D	<p>SPECIFIC ISSUES FOR THE CHILDREN IN THE CUSTODY OF THE DEPARTMENT</p> <p>HIV/AIDS</p> <p>To protect children from discrimination as a result of being tested for the human immunodeficiency virus (HIV), the decision to test a child for the HIV antibody will be carefully made on an individual basis. It is the role of the worker to give written informed consent when a child's situation meets the conditions in the protocols in the Case Management Guidebook, Specific Issues section. A child will not be tested for HIV unless there is a reasonable cause to believe the child has been exposed to the virus. Children may be tested either through an approved Counseling, Testing, Referral and Partner Notification Site (CTRPNS) or through the child's medical care provider, depending on the individual child's situation per the procedures outlined in the guidebook. Informed consent is required for all HIV and AIDS testing.</p> <p>To preserve confidentiality, an HHS approved CTRPNS will be used whenever possible, particularly for older youth who engage in risk behaviors. These sites provide for the greatest degree of confidentiality as well as appropriate pre- and post-test counseling regarding the child's risk behaviors.</p> <p>The Interagency Agreement on HIV/AIDS counseling and testing will guide decision-making for children with this condition. (See protocol in Guidelines for Decision-Making in Case Management Guidebook.)</p> <p>The following four situations should guide decision making for informed consent by the Department for HIV testing:</p> <p>1. Medical Testing: When a child has medical symptoms, with or without other identified risks of HIV exposure, and when a medical provider asks for informed consent to test the child because of these medical indications, it is appropriate for the worker to give informed consent for the child to be tested in a hospital or clinic as part of the medical evaluation. Even though the testing is done by a medical provider and will become part of the child's medical record, the use of the CTRPNS for counseling services for older children regarding their risk behaviors should be considered and encouraged. HHS staff should give informed consent for HIV testing for medical reasons in the following situations:</p> <p>a. The child has hemophilia;</p> <p>b. The child is an infant born to a mother known to be HIV antibody positive; that is, has AIDS, has HIV disease, or is known to be an HIV</p>

390 NAC 11-000	Code Language
	<p>carrier;</p> <p>c. The child is an infant under three years of age who was born to a mother known to be at risk for HIV infection but whose HIV status is unknown and cannot be determined either through her medical record or through current testing. Behaviors that may put the mother at risk for HIV infection include: use of injectable drugs, engaging in sex for money, having multiple sex partners, etc.;</p> <p>d. The child has medical signs or symptoms which are suggestive of an HIV related illness;</p> <p>e. The child is pregnant. (HIV testing during pregnancy is recommended for all women. In addition, pregnant youth should be encouraged to visit the CTRPNS for appropriate pre and post test counseling.)</p> <p>2. Children's Behaviors. Older children who engage in behaviors that put them at risk for HIV infection (for example, multiple sex partners, sex for money, and use of injectable drugs) should be individually evaluated. The use of the Counseling, Testing and Partner Notification Sites should be strongly considered not only for the testing but more importantly for the pre and post test counseling which is available. (Using the Counseling, Testing and Partner Notification Sites protects the child's confidentiality, which is a very important consideration for children who are wards.)</p> <p>3. Exposure to Child's Blood. Health care facilities are required to have policies in place to protect their health care workers. These policies are governed by OSHA regulations and by state statutes. When a health care worker has accidentally been exposed to blood or other potentially infectious body fluids of a state ward, the facility will contact the worker per their policies to request informed consent for HIV testing of the ward. Such events include the accidental exposure of blood to a health care worker's non-intact skin, mucus membranes, or subcutaneous tissue such as through a needle stick injury. The worker should establish that the medical facility has a policy addressing procedures for accidental exposure to blood that meet both OSHA requirements and state statute requirements 1) for getting informed consent for testing from the child's legal guardian; 2) for ensuring that the fact of HIV testing and the results of the testing are kept confidential and do not become part of the patient's medical record; 3) for ensuring that the HHS caseworker for the ward is given the results of the HIV testing. If these conditions are met, the worker should give informed consent as soon as possible after the exposure to allow the health care worker to be treated with a preventive course of medication. The caseworker may seek consultation from an HHS physician at any time.</p> <p>4. Forensic Issues. Any information related to HIV infection that may be needed in a court of law (for example, prosecution for child abuse) must be obtained through the regular medical delivery system. Information from CTPNS cannot be used for forensic purposes because it is confidential under the law.</p>

390 NAC 11-000	Code Language
	<p data-bbox="418 273 686 300">Results of Testing</p> <p data-bbox="418 336 1430 556">If a child tests positive for HIV in any of the above four situations, the child will be immediately referred to an appropriate provider for further medical evaluation and treatment. The child will be provided with age appropriate counseling and support to assist him/her in emotionally and physically dealing with the condition. The child's parents, foster parents, or immediate caregiver and the child's guardian ad litem will be advised of the child's condition and course of treatment.</p>