

# New Jersey Introduction and Table of Contents

April 8, 2011

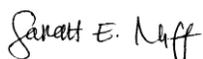
To the Reader:

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

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

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

Thank you,



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&



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

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## Definitions and Helpful Resources

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### Definitions Commonly Used Nationally

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

### Helpful Resources

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

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

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

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

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

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

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

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

## **New Jersey**

### **A Quick Reference Guide for Clinicians to New Jersey HIV Testing Laws**

April 8, 2011

This Quick Reference Guide for clinicians is a summary of relevant New Jersey state HIV testing laws. Note that if a section in this Quick Reference Guide reads “no specific provisions were found,” provisions actually might exist for this topic within the state’s statutes, codes, or rules and regulations, but probably are not essential to clinicians.

For a more complete synopsis of New Jersey 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.

#### **Provisos of Testing**

- **Anonymous**
  - 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**

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

#### **Minor/Adolescent Testing**

- Minors 13 years or older may consent to HIV testing.

# New Jersey

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

### **A Guide to New Jersey Perinatal HIV Testing Laws for Clinicians**

April 8, 2011

This Perinatal Quick Reference Guide for clinicians is a summary of relevant New Jersey perinatal state HIV testing laws. Note that if a section in this Quick Reference Guide reads "no specific provisions were found," provisions actually might exist for this topic within the state's statutes, codes, or rules and regulations, but probably are not essential to clinicians.

For a more complete synopsis of New Jersey HIV testing laws, please refer to the corresponding section of the *State HIV Testing Laws Compendium* ([www.nccc.ucsf.edu](http://www.nccc.ucsf.edu)), "Testing of pregnant women and/or newborns."

#### **Prenatal**

- Testing of all pregnant women in prenatal care is routine and through the opt-out process; declination must be documented in the medical record.
- Provider must offer testing, information, and counseling to pregnant women.
- **Initial visit**
  - All pregnant women shall be tested for HIV as early as possible in their pregnancy.
- **Third trimester**
  - All pregnant women shall be tested for HIV again during the third trimester of their pregnancy.

#### **Labor & Delivery**

- Testing of all pregnant women presenting for delivery is through the opt-out process.

#### **Neonatal**

- Required testing of newborns if mothers' status is unknown unless a written religious objection is included in the newborns' medical records.
- HIV positive mother or newborn will receive follow-up testing, counseling, education, etc.

#### **Other**

- **Informed Consent**
  - Informed consent form from the Department or with the information outlined in *Information and Counseling* below must be signed.\*
- **Information and Counseling**
  - The primary caregiver for a pregnant woman shall, in accordance with guidelines developed by the commissioner, provide the woman with information about HIV/AIDS, including an explanation of HIV infection and the meanings of test results, and also inform the woman of the benefits of being tested for HIV as early as possible in the course of her pregnancy and a second time during the third trimester, the medical treatment available to treat HIV infection if diagnosed early, the reduced rate of transmission of HIV to a fetus if an HIV-infected pregnant woman receives treatment for HIV, and the interventions that are available to reduce the risk of transmission. The information shall be provided orally or in writing, and the woman shall be offered an opportunity to ask questions.
  - Provider must make every reasonable effort to give results and their meaning, advise of measures to prevent infection for negative results, and ensure post-test counseling for HIV+ results.

***\*Provisions that require a Department informed consent form are solely in the NJ Administrative Code and conflict with newly revised NJ Annotated Statutes.***

# New Jersey State Policies Relating to HIV Testing, 2011

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### New Jersey Annotated Statutes [NJAS]

**Title 2A: Administration of Civil and Criminal Justice**..... Pages 4-5  
**Title 2C: The New Jersey Code of Criminal Justice**..... Pages 6-9  
**Title 9: Children – Juvenile and Domestic Relations Courts** ..... Page 10  
**Title 18A: Education**.....Page 11  
**Title 26: Health and Vital Statistics**..... Pages 12-18  
**Title 30: Institutions and Agencies**..... Page 19  
**Title 52: State Government, Departments, and Officers**..... Pages 20-22

### New Jersey Administrative Code [NJAC]

**Title 6A: Department of Education**..... Page 23  
**Title 8: Department of Health and Senior Services**..... Pages 24-32  
**Title 13: Law and Public Safety**..... Pages 33-34

	<b>Policy Category</b>	<b>Type</b>	<b>Section Code(s)</b>
RESTRICTIONS/ MANDATES	Restrictions on use of HIV test	Student medical exam does not include HIV/AIDS status	NJAC 6A:16-2.2
	Mandatory testing within the criminal justice system	Juveniles charged with or adjudicated of a sex offense upon request of victim	NJAS §2A:4A-43.1 NJAS §2C:43-2.2
		Occupational exposure – law enforcement officers – court order for source to be tested	NJAS §2A:4A-43.4 NJAS §2C:43-2.3
		Persons charged with or convicted of a sex offense upon request of victim	NJAS §2C:43-2.2
		Potential transmission to victim – court order to submit offender to testing upon exposed request	NJAS §2A:4A-43.4 NJAS §2C:43-2.3
		Mandatory testing outside of the criminal justice system	Semen donations
	Blood donations		NJAC 8:8-6.5
State mental health patients must submit to testing upon admission	NJAS §30:4-7.8		
Boxers	NJAC 13:46-12A.5		
PRE-TESTING	Mandatory offering of HIV/AIDS information and/or testing	Pregnant women in prenatal care – opt-out testing	NJAS §26:5C-16
		Victims of sex offenses must be notified of availability of testing and counseling	NJAS §52:4B-44

		Needle exchange sites must offer HIV information	NJAS §26:5C-28
		Needle exchange sites must offer information on testing options	NJAS §26:5C-28
		Sex education in schools shall include information about HIV	NJAS §18A:35-4.20
	Informed consent	No related laws found	
	Counseling requirements	HIV counseling must be provided to sex offense victims upon receiving test results of offender	NJAS §2C:43-2.2 NJAS §2C:43-2.3
	Anonymous testing	State department of health must sponsor anonymous testing sites	NJAS §26:5C-6
POST-TESTING	Disclosure/confidentiality	HIV records confidential	NJAS §26:5C-7
		Exceptions to confidentiality	NJAS §26:5C-8
		Disclosure to full-time caregivers of DYFS wards on need-to-know basis	NJAC 8:61-5.1
		Court ordered disclosure	NJAS §26:5C-9
		Civil action permitted against unlawful disclosure	NJAS §26:5C-14
		Women authorized to pursue action against unauthorized disclosure	NJAS §26:5C-18
	Reporting	Name-based reporting	NJAS §26:5C-6 NJAC 8:57-2.2 NJAC 8:57-2.3
OTHER	Testing of pregnant women and/or newborns	Routine prenatal care, third trimester, and women presenting to delivery – opt-out testing	NJAS §26:5C-16
		Written consent form from the Department or form with Department form's required information must be signed; refusal to sign form must be documented in the medical record	NJAS §26:5C-16 NJAC 8:61-4.1
		Required testing of newborns if mothers' status is unknown unless written religious objection is included in medical record of newborn	NJAS §26:2-111.2
		Mother will receive follow-up testing, counseling, education,	NJAS §26:2-111.2

	etc for HIV positive mother or newborn	
	Provider must make every reasonable effort to give the woman the results and their meaning, advise of measures to prevent infection for negative results, and ensure post-test counseling for HIV+ results	NJAC 8:61-4.1
	Primary caregiver, provider who makes diagnosis of pregnancy, or provider offering care within 4 weeks of delivery or postpartum must offer testing, information, and counseling to pregnant women	NJAS §26:5C-16 NJAC 8:61-4.1
Testing of minors/adolescents	Minors may consent to STD services	NJAS §9:17A-4
	Minors must be 13 years or older to consent to HIV testing and treatment	NJAS §9:17A-4
	Physician may, but is not required to, inform parents	NJAS §9:17A-4
Rapid HIV testing	Laboratories to develop rapid testing protocols	NJAC 8:44-3.1
Training and education of health care providers	Alcohol and drug counselor training includes knowledge of HIV+ resources	NJAC 13:34C-2.3
	Homemaker-home health aide training includes HIV education	NJAC 13:37-14.4

### Recommended Resources

#### New Jersey Legislature

<http://www.njleg.state.nj.us/>

#### New Jersey Department of Health and Senior Services – Division of HIV/AIDS Services

<http://www.state.nj.us/health/aids/aidsprv.htm>

#### New Jersey Administrative Code

<http://www.lexisnexis.com/njoal/>

<b>Title 2A: Administration of Civil and Criminal Justice</b>
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NJ Title 2A Code §	Code Language
§ 2A:4A-43.1	<p><b>Certain juveniles to submit to serological tests</b></p> <p>In accordance with section 4 of P.L.1993, c.364 (<a href="#">C.2C:43-2.2</a>) and in addition to any other disposition authorized pursuant to <a href="#">N.J.S. 2A:4A-43</a>, a court shall order a juvenile charged with delinquency or adjudicated delinquent for an act which if committed by an adult would constitute aggravated sexual assault or sexual assault as defined in subsection a. or c. of <a href="#">N.J.S. 2C:14-2</a> to submit to an approved serological test for acquired immune deficiency syndrome (AIDS) or infection with the human immunodeficiency virus (HIV) or any other related virus identified as a probable causative agent of AIDS.</p>
§ 2A:4A-43.4	<p><b>Orders for certain serological testing of juveniles required under certain circumstances</b></p> <p>a. In addition to any other disposition made pursuant to law, a court shall order a juvenile charged with delinquency or adjudicated delinquent for an act which, if committed by an adult would constitute a crime, a disorderly persons offense or a petty disorderly persons offense, to submit to an approved serological test for acquired immune deficiency syndrome (AIDS) or infection with the human immunodeficiency virus (HIV) or any other related virus identified as a probable causative agent of AIDS if:</p> <p>(1) in the course of the commission of the act, including the immediate flight thereafter or during any investigation or arrest related to that act, a law enforcement officer, the victim or other person suffered a prick from a hypodermic needle, provided there is probable cause to believe that the juvenile is an intravenous user of controlled dangerous substances; or</p> <p>(2) in the course of the commission of the act, including the immediate flight thereafter or during any investigation or arrest related to that act, a law enforcement officer, the victim or other person had contact with the juvenile which involved or was likely to involve the transmission of bodily fluids.</p> <p>The court may order a juvenile to submit to an approved serological test for AIDS or infection with the HIV or any other related virus identified as a probable causative agent of AIDS if in the course of the performance of any other law enforcement duties, a law enforcement officer suffers a prick from a hypodermic needle, provided that there is probable cause to believe that the defendant is an intravenous user of controlled dangerous substances, or had contact with the defendant which involved or was likely to involve the transmission of bodily fluids. The court shall issue such an order only upon the request of the law enforcement officer, victim of the offense or other affected person made at the time of indictment, charge or conviction. If a county prosecutor declines to make such an</p>

NJ Title 2A Code §	Code Language
	<p>application within 72 hours of being requested to do so by the law enforcement officer, the law enforcement officer may appeal to the Division of Criminal Justice in the Department of Law and Public Safety for that officer to bring the application. The juvenile shall be ordered by the court to submit to such repeat or confirmatory tests as may be medically necessary.</p> <p>b. A court order issued pursuant to subsection a. of this section shall require testing to be performed as soon as practicable by the Executive Director of the Juvenile Justice Commission pursuant to authority granted to the executive director by sections 6 and 10 of P.L.1976, c.98 (<a href="#">C.30:1B-6</a> and <a href="#">30:1B-10</a>) or by a provider of health care or at a health care facility licensed pursuant to section 12 of P.L.1971, c.136 (<a href="#">C.26:2H-12</a>). The order shall also require that the results of the test be reported to the offender, the appropriate Office of Victim-Witness Advocacy if a victim of an offense is tested, and the affected law enforcement officer. Upon receipt of the result of a test ordered pursuant to subsection a. of this section, the Office of Victim-Witness Advocacy shall provide the victim with appropriate counseling, referral for counseling and if appropriate, referral for health care. The office shall notify the victim or make appropriate arrangements for the victim to be notified of the test result.</p> <p>c. In addition to any other disposition authorized, a court may order a juvenile at the time of sentencing to reimburse the State for the costs of the tests ordered by subsection a. of this section.</p> <p>d. The result of a test ordered pursuant to subsection a. of this section shall be confidential and health care providers and employees of the Juvenile Justice Commission, the Office of Victim-Witness Advocacy, a health care facility or counseling service shall not disclose the result of a test performed pursuant to this section except as authorized herein or as otherwise authorized by law or court order. The provisions of this section shall not be deemed to prohibit disclosure of a test result to the person tested.</p> <p>e. Persons who perform tests ordered pursuant to subsection a. of this section in accordance with accepted medical standards for the performance of such tests shall be immune from civil and criminal liability arising from their conduct.</p> <p>f. This section shall not be construed to preclude or limit any other testing for AIDS or infection with the HIV or any other related virus identified as a probable causative agent of AIDS which is otherwise permitted by statute, court rule or common law.</p>

<b>Title 2C: The New Jersey Code of Criminal Justice</b>
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NJ Title 2C Code §	Code Language
§ 2C:43-2.2	<p><b>Issuance of court order requiring serological tests</b></p> <p>a. In addition to any other disposition made pursuant to law, a court shall order a person convicted of, indicted for or formally charged with, or a juvenile charged with delinquency or adjudicated delinquent for an act which if committed by an adult would constitute, aggravated sexual assault or sexual assault as defined in subsection a. or c. of <a href="#">N.J.S.2C:14-2</a> to submit to an approved serological test for acquired immune deficiency syndrome (AIDS) or infection with the human immunodeficiency virus (HIV) or any other related virus identified as a probable causative agent of AIDS. The court shall issue such an order only upon the request of the victim and upon application of the prosecutor made at the time of indictment, charge, conviction or adjudication of delinquency. The person or juvenile shall be ordered by the court to submit to such repeat or confirmatory tests as may be medically necessary.</p> <p>As used in this section, "formal charge" includes a proceeding by accusation in the event that the defendant has waived the right to an indictment.</p> <p>b. A court order issued pursuant to subsection a. of this section shall require testing to be performed as soon as practicable by the Commissioner of the Department of Corrections pursuant to authority granted to the commissioner by sections 6 and 10 of P.L.1976, c.98 (<a href="#">C.30:1B-6</a> and <a href="#">30:1B-10</a>), by a provider of health care, at a health facility licensed pursuant to section 12 of P.L.1971, c.136 (<a href="#">C.26:2H-12</a>) or the Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (<a href="#">C.52:17B-170</a>). The order shall also require that the results of the test be reported to the offender and to the appropriate Office of Victim-Witness Advocacy.</p> <p>c. The Office of Victim-Witness Advocacy, established pursuant to section 5 of P.L.1985, c.404 (<a href="#">C.52:4B-43</a>), shall reimburse the Department of Corrections, Department of Health or the Juvenile Justice Commission for the direct costs incurred by these departments for any tests ordered by a court pursuant to subsection a. of this section. Reimbursement shall be made following a request from the department.</p> <p>d. In addition to any other disposition authorized, a court may order an offender at the time of sentencing to reimburse the State for the costs of the tests ordered by subsection a. of this section.</p> <p>e. Upon receipt of the result of a test ordered pursuant to subsection a. of this section, the Office of Victim-Witness Advocacy shall provide the victim with appropriate counseling, referral for counseling and if appropriate, referral for health care. The office shall notify the victim or make appropriate arrangements for the victim to be notified of the test</p>

NJ Title 2C Code §	Code Language
	<p>result.</p> <p>f. The result of a test ordered pursuant to subsection a. of this section shall be confidential and employees of the Department of Corrections, the Juvenile Justice Commission, the Office of Victim-Witness Advocacy, a health care provider, health care facility or counseling service shall not disclose the result of a test performed pursuant to this section except as authorized herein or as otherwise authorized by law or court order. The provisions of this section shall not be deemed to prohibit disclosure of a test result to the person tested.</p> <p>g. Persons who perform tests ordered pursuant to subsection a. of this section in accordance with accepted medical standards for the performance of such tests shall be immune from civil and criminal liability arising from their conduct.</p> <p>h. This section shall not be construed to preclude or limit any other testing for acquired immune deficiency syndrome (AIDS) or infection with the human immunodeficiency virus (HIV) or any other related virus identified as a probable causative agent of AIDS which is otherwise permitted by statute, court rule or common law.</p>
§ 2C:43-2.3	<p><b>Orders for certain serological testing required under certain circumstances</b></p> <p>a. In addition to any other disposition made pursuant to law, a court shall order a person convicted of, indicted for or formally charged with a criminal offense, a disorderly persons offense or a petty disorderly persons offense, to submit to an approved serological test for acquired immune deficiency syndrome (AIDS) or infection with the human immunodeficiency virus (HIV) or any other related virus identified as a probable causative agent of AIDS if:</p> <p>(1) in the course of the commission of the offense, including the immediate flight thereafter or during any investigation or arrest related to that offense, a law enforcement officer, the victim or other person suffered a prick from a hypodermic needle, provided there is probable cause to believe that the defendant is an intravenous user of controlled dangerous substances; or</p> <p>(2) in the course of the commission of the offense, including the immediate flight thereafter or during any investigation or arrest related to that offense, a law enforcement officer, the victim or other person had contact with the defendant which involved or was likely to involve the transmission of bodily fluids.</p> <p>The court may order a person to submit to an approved serological test for AIDS or infection with the HIV or any other related virus identified as a probable causative agent of AIDS if in the course of the performance of any other law enforcement duties, a law enforcement officer suffers a</p>

NJ Title 2C Code §	Code Language
	<p>prick from a hypodermic needle, provided that there is probable cause to believe that the defendant is an intravenous user of controlled dangerous substances, or had contact with the defendant which involved or was likely to involve the transmission of bodily fluids. The court shall issue such an order only upon the request of the law enforcement officer, victim of the offense or other affected person made at the time of indictment, charge or conviction. If a county prosecutor declines to make such an application within 72 hours of being requested to do so by the law enforcement officer, the law enforcement officer may appeal to the Division of Criminal Justice in the Department of Law and Public Safety for that officer to bring the application. The person shall be ordered by the court to submit to such repeat or confirmatory tests as may be medically necessary.</p> <p>As used in this section, "formal charge" includes a proceeding by accusation in the event that the defendant has waived the right to an indictment.</p> <p>b. A court order issued pursuant to subsection a. of this section shall require testing to be performed as soon as practicable by the Commissioner of the Department of Corrections pursuant to authority granted to the commissioner by sections 6 and 10 of P.L.1976, c.98 (<a href="#">C.30:1B-6</a> and <a href="#">30:1B-10</a>) or by a provider of health care or at a health care facility licensed pursuant to section 12 of P.L.1971, c.136 (<a href="#">C.26:2H-12</a>). The order shall also require that the results of the test be reported to the offender, the appropriate Office of Victim-Witness Advocacy if a victim of an offense is tested, and the affected law enforcement officer. Upon receipt of the result of a test ordered pursuant to subsection a. of this section, the Office of Victim-Witness Advocacy shall provide the victim with appropriate counseling, referral for counseling and if appropriate, referral for health care. The office shall notify the victim or make appropriate arrangements for the victim to be notified of the test result.</p> <p>c. In addition to any other disposition authorized, a court may order an offender at the time of sentencing to reimburse the State for the costs of the tests ordered pursuant to subsection a. of this section.</p> <p>d. The result of a test ordered pursuant to subsection a. of this section shall be confidential and health care providers and employees of the Department of Corrections, the Office of Victim-Witness Advocacy, a health care facility or counseling service shall not disclose the result of a test performed pursuant to this section except as authorized herein or as otherwise authorized by law or court order. The provisions of this section shall not be deemed to prohibit disclosure of a test result to the person tested.</p> <p>e. Persons who perform tests ordered pursuant to subsection a. of this section in accordance with accepted medical standards for the performance of such tests shall be immune from civil and criminal liability arising from their conduct.</p>

<b>NJ Title 2C Code §</b>	<b>Code Language</b>
	f. This section shall not be construed to preclude or limit any other testing for AIDS or infection with the HIV or any other related virus identified as a probable causative agent of AIDS which is otherwise permitted by statute, court rule or common law.

<b>Title 9: Children – Juvenile and Domestic Relations Courts</b>
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NJSA Title 9 Code §	Code Language
§ 9:17A-4	<p><b>Consent by minor to treatment.</b></p> <p>1.The consent to the provision of medical or surgical care or services by a hospital, public clinic, or the performance of medical or surgical care or services by a physician, licensed to practice medicine, when executed by a minor who is or believes that he may be afflicted with a venereal disease, or who is at least 13 years of age and is or believes that he may be infected with the human immunodeficiency virus or have acquired immune deficiency syndrome, or by a minor who, in the judgment of a treating physician, appears to have been sexually assaulted, shall be valid and binding as if the minor had achieved his or her majority, as the case may be. Any such consent shall not be subject to later disaffirmance by reason of minority. In the case of a minor who appears to have been sexually assaulted, the minor's parents or guardian shall be notified immediately, unless the attending physician believes that it is in the best interests of the patient not to do so; however, inability of the treating physician, hospital or clinic to locate or notify the parents or guardian shall not preclude the provision of any necessary emergency medical or surgical care to the minor.</p> <p>When a minor believes that he is suffering from the use of drugs or is a drug dependent person as defined in section 2 of P.L.1970, c.226 (C.24:21-2) or is suffering from alcohol dependency or is an alcoholic as defined in section 2 of P.L.1975, c.305 (C.26:2B-8), his consent to treatment under the supervision of a physician licensed to practice medicine, or an individual licensed or certified to provide treatment for alcoholism or in a facility licensed by the State to provide for the treatment of alcoholism shall be valid and binding as if the minor had achieved his or her majority, as the case may be. Any such consent shall not be subject to later disaffirmance by reason of minority. Treatment for drug use, drug abuse, alcohol use or alcohol abuse that is consented to by a minor shall be considered confidential information between the physician, the treatment provider or the treatment facility, as appropriate, and his patient, and neither the minor nor his physician, treatment provider or treatment facility, as appropriate, shall be required to report such treatment when it is the result of voluntary consent, except as may otherwise be required by law.</p> <p>The consent of no other person or persons, including but not limited to a spouse, parent, custodian or guardian, shall be necessary in order to authorize such hospital, facility or clinical care or services or medical or surgical care or services to be provided by a physician licensed to practice medicine or by an individual licensed or certified to provide treatment for alcoholism to such a minor.</p>

<b>Title 18A: Education</b>	
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<b>NJSA Title 18A Code §</b>	<b>Code Language</b>
§ 18A:35-4:20	<p><b>Sex education programs to stress abstinence</b></p> <p>Any sex education that is given as part of any planned course, curriculum or other instructional program and that is intended to impart information or promote discussion or understanding in regard to human sexual behavior, sexual feelings and sexual values, human sexuality and reproduction, pregnancy avoidance or termination, HIV infection or sexually transmitted diseases, regardless of whether such instruction is described as, or incorporated into a description of "sex education," "family life education," "family health education," "health education," "family living," "health," "self esteem," or any other course, curriculum program or goal of education, and any materials including, but not limited, to handouts, speakers, notes or audiovisuals presented on school property concerning methods for the prevention of acquired immune deficiency syndrome (HIV/AIDS), other sexually transmitted diseases and of avoiding pregnancy, shall stress that abstinence from sexual activity is the only completely reliable means of eliminating the sexual transmission of HIV/AIDS and other sexually transmitted diseases and of avoiding pregnancy.</p>

<b>Title 26: Health and Vital Statistics</b>
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NJ Title 26 Code §	Code Language
§ 26:2-111.2	<p><b>HIV testing required for certain newborns.</b></p> <p>4. a. The Commissioner of Health and Senior Services shall require each birthing facility in the State to administer to a newborn in its care a test for human immunodeficiency virus (HIV) if the HIV status of the mother of the newborn is unknown.</p> <p>A newborn shall not be denied testing for HIV on the basis of the newborn's economic status.</p> <p>b. The commissioner shall establish a comprehensive program for the follow-up testing of newborns who test positive for HIV pursuant to subsection a. of this section or whose mother is HIV-positive, which shall include, but not be limited to, procedures for the administration of HIV testing, counseling of the newborn's mother, tracking the newborn, disclosure of HIV test results to the mother, facility compliance reviews, and educational activities related to the HIV testing.</p> <p>c. The provisions of this section shall not apply to a newborn whose parents object to the test as being in conflict with their religious tenets and practices. The parents shall provide the health care facility with a written statement of the objection, and the statement shall be included in the newborn's medical record.</p> <p>d. As used in this section, "birthing facility" means an inpatient or ambulatory health care facility licensed by the Department of Health and Senior Services that provides birthing and newborn care services.</p> <p>e. The Commissioner of Health and Senior Services shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to carry out the purposes of this section.</p>
§ 26:5C-5	<p><b>Definitions</b></p> <p>As used in this act:</p> <p>"AIDS" means acquired immune deficiency syndrome as defined by the Centers for Disease Control of the United States Public Health Service.</p> <p>"Commissioner" means the Commissioner of Health.</p> <p>"Department" means the Department of Health.</p> <p>"Diagnosis and treatment" means services or activities carried out for the purpose of, or as an incident to, diagnosis, prevention and treatment of AIDS and HIV infection and includes interviewing and counseling.</p> <p>"HIV infection" means infection with the human immunodeficiency virus or any other related virus identified as a probable causative agent of AIDS.</p> <p>"HIV related illness" means an illness that may result from, or may be associated with, HIV infection.</p>

NJ Title 26 Code §	Code Language
	<p>"HIV related test" means any laboratory test or series of tests for any virus, antibody, antigen or etiologic agent thought to cause or to indicate the presence of AIDS.</p> <p>"Identifying information" means the name, address, Social Security number, or similar information by which the identity of a person who has or is suspected of having AIDS or HIV infection may be determined with reasonable accuracy either directly or by reference to other publicly available information.</p> <p>"Informed consent" means consent obtained pursuant to policies and procedures prescribed in <a href="#">42 C.F.R. 2.31</a>.</p> <p>"Minor" means a person under the age of 12.</p> <p>"Program" means either an individual or an organization furnishing diagnosis and treatment of AIDS and conditions related to HIV infection.</p>
§ 26:5C-6	<p><b>AIDS, HIV infection reported to Department of Health</b></p> <p>All diagnosed cases of AIDS and all diagnosed cases of HIV infection shall be reported to the department along with the identifying information for the person diagnosed. However, the department may select up to six counseling and testing sites throughout the State to offer anonymous testing. These sites shall be required to report all diagnosed cases of AIDS and all diagnosed cases of HIV infection but shall not be required to request or report identifying information. The commissioner shall determine those individuals who shall be required to make the reports and the manner in which the report shall be made to the department.</p>
§ 26:5C-7	<p><b>Confidentiality of AIDS, HIV infection records, information</b></p> <p>A record maintained by:</p> <ol style="list-style-type: none"> <li>a. the department;</li> <li>b. a local health department;</li> <li>c. an organization pursuant to a contract with, grant from, or regulation by the department in connection with this act;</li> <li>d. a provider of health care or a health care facility as defined by section 2 of P.L.1971, c.136 (C.26:2H-2);</li> <li>e. a laboratory;</li> <li>f. a blood bank;</li> <li>g. a third-party payor; or</li> <li>h. any other institution or person; which contains identifying information about a person who has or is suspected of having AIDS or HIV infection is confidential and shall be disclosed only for the purposes authorized by this act.</li> </ol>
§ 26:5C-8	<p><b>Disclosure of AIDS, HIV records, information</b></p> <ol style="list-style-type: none"> <li>a. The content of a record referred to in section 3 of this act may be</li> </ol>

NJ Title 26 Code §	Code Language
	<p>disclosed in accordance with the prior written informed consent of the person who is the subject of the record or if the person is legally incompetent or deceased, in accordance with section 8 of this act.</p> <p>b. If the prior written consent of the person who is the subject of the record is not obtained, the person's records shall be disclosed only under the following conditions:</p> <p>(1) To qualified personnel for the purpose of conducting scientific research, but a record shall be released for research only following review of the research protocol by an Institutional Review Board constituted pursuant to federal regulation 45 C.F.R. 46.101 et seq. The person who is the subject of the record shall not be identified, directly or indirectly, in any report of the research and research personnel shall not disclose the person's identity in any manner.</p> <p>(2) To qualified personnel for the purpose of conducting management audits, financial audits or program evaluation, but the personnel shall not identify, directly or indirectly, the person who is the subject of the record in a report of an audit or evaluation, or otherwise disclose the person's identity in any manner. Identifying information shall not be released to the personnel unless it is vital to the audit or evaluation.</p> <p>(3) To qualified personnel involved in medical education or in the diagnosis and treatment of the person who is the subject of the record. Disclosure is limited to only personnel directly involved in medical education or in the diagnosis and treatment of the person.</p> <p>(4) To the department as required by State or federal law.</p> <p>(5) As permitted by rules and regulations adopted by the commissioner for the purposes of disease prevention and control.</p> <p>(6) In all other instances authorized by State or federal law.</p>
§ 26:5C-9	<p><b>Order of court to disclose record of AIDS, HIV infection</b></p> <p>a. The record of a person who has or is suspected of having AIDS or HIV infection may be disclosed by an order of a court of competent jurisdiction which is granted pursuant to an application showing good cause therefor. At a good cause hearing the court shall weigh the public interest and need for disclosure against the injury to the person who is the subject of the record, to the physician-patient relationship, and to the services offered by the program. Upon the granting of the order, the court, in determining the extent to which a disclosure of all or any part of a record is necessary, shall impose appropriate safeguards to prevent an unauthorized disclosure.</p> <p>b. A court may authorize disclosure of a person's record for the purpose of conducting an investigation of or a prosecution for a crime of which the person is suspected, only if the crime is a first degree crime and there is a reasonable likelihood that the record in question will disclose material information or evidence of substantial value in connection with the investigation or prosecution.</p> <p>c. Except as provided in subsections a. and b. of this section, a record shall not be used to initiate or substantiate any criminal or civil charges against</p>

<b>NJ Title 26 Code §</b>	<b>Code Language</b>
	<p>the person who is the subject of the record or to conduct any investigation of that person.</p> <p>d. The court shall deny an application for disclosure of a person's record unless the court makes a specific finding that the program was afforded the opportunity to be represented at the hearing. A program operated by a federal, State or local government agency or department shall be represented at the hearing.</p> <p>e. Nothing in this section shall be construed to authorize disclosure of any confidential communication which is otherwise protected by statute, court rule or common law.</p>
§ 26:5C-13	<p><b>Consent for disclosure of minor's record</b></p> <p>When consent is required for disclosure of the record of a minor who has or is suspected of having AIDS or HIV infection, consent shall be obtained from the parent, guardian, or other individual authorized under State law to act in the minor's behalf.</p>
§ 26:5C-14	<p><b>Civil actions permitted against violators</b></p> <p>a. A person who has or is suspected of having AIDS or HIV infection who is aggrieved as a result of a violation of this act may commence a civil action against the individual or institution who committed the violation to obtain appropriate relief, including actual damages, equitable relief and reasonable attorney's fees and court costs. Punitive damages may be awarded when the violation evidences wantonly reckless or intentionally malicious conduct by the person or institution who committed the violation.</p> <p>b. Each disclosure made in violation of this act is a separate and actionable offense.</p>
§ 26:5C-15	<p><b>Definitions</b></p> <p>As used in this act:</p> <p>"AIDS" means acquired immune deficiency syndrome as defined by the Centers for Disease Control and Prevention of the United States Public Health Service.</p> <p>"Commissioner" means the Commissioner of Health and Senior Services.</p> <p>"Department" means the Department of Health and Senior Services.</p> <p>"HIV" means the human immunodeficiency virus or any other related virus identified as a probable causative agent of AIDS.</p>
§ 26:5C-16	<p><b>Policy statement; information on HIV testing; guidelines for notification; confidentiality.</b></p>

NJ Title 26 Code §	Code Language
	<p>2. It is the policy of this State that: testing of all pregnant women for HIV shall be part of routine prenatal care; and, in the absence of a specific objection to the testing by the pregnant woman, all pregnant women shall be tested for HIV as early as possible in their pregnancy, and again during the third trimester of their pregnancy; testing of all pregnant women for HIV shall be voluntary and free of coercion; and a pregnant woman shall not be denied testing for HIV on the basis of her economic status.</p> <p>a. (1) A physician or other health care practitioner who is the primary caregiver for a pregnant woman shall, in accordance with guidelines developed by the commissioner, provide the woman with information about HIV and AIDS, including an explanation of HIV infection and the meanings of positive and negative test results, and also inform the woman of the benefits of being tested for HIV as early as possible in the course of her pregnancy and a second time during the third trimester, the medical treatment available to treat HIV infection if diagnosed early, the reduced rate of transmission of HIV to a fetus if an HIV-infected pregnant woman receives treatment for HIV, and the interventions that are available to reduce the risk of transmission of HIV to the fetus and newborn. The information shall be provided orally or in writing, and the woman shall be offered an opportunity to ask questions.</p> <p>The physician or other health care practitioner shall also advise the woman that HIV testing is recommended for all pregnant women both early in their pregnancy and during the third trimester, and that she will receive HIV tests as part of the routine panel of prenatal tests unless she specifically declines to be tested for HIV.</p> <p>If a woman declines to be tested for HIV, the declination shall be documented in her medical record. A woman shall not be denied appropriate prenatal or other medical care because she declines to be tested for HIV.</p> <p>(2) A pregnant woman, who presents herself for delivery and has not been tested for HIV during the course of her pregnancy, shall be given the information specified in paragraph (1) of this subsection as soon as may be medically appropriate and, unless she declines to be tested for HIV after receiving that information, shall be tested for HIV as soon as may be medically appropriate.</p> <p>b. The commissioner shall establish guidelines regarding notification to a woman whose test result is positive, and to provide, to the maximum extent possible, for counseling about the significance of the test result.</p> <p>c. Information about a woman which is obtained pursuant to this section shall be held confidential in accordance with the provisions of P.L.1989, c.303 (C.26:5C-5 et seq.).</p>
§ 26:5C-18	<p><b>Action due to unauthorized disclosure</b></p> <p>A woman who has or is suspected of having AIDS or HIV infection may pursue an action against a person who makes an unauthorized disclosure of any information concerning the woman's positive test result for the presence of antibodies to HIV which is obtained pursuant to section 2 of this act, in accordance with the provisions of section 10 of P.L.1989, c.303 (<a href="#">C.26:5C-14</a>).</p>

NJ Title 26 Code §	Code Language
§ 26:5C-20	<p><b>Rules, regulations.</b></p> <p>6. The commissioner, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations to effect this act. The regulations shall be consistent with the latest recommendations for HIV testing of pregnant women prepared by the United States Centers for Disease Control and Prevention.</p>
§ 26:5C-21	<p><b>Definitions relative to HIV testing by semen banks.</b></p> <p>As used in this act:</p> <p>"HIV" means the human immunodeficiency virus which has been identified as the probable causative agent of acquired immune deficiency syndrome, or AIDS.</p> <p>"HIV test" means a laboratory test designed to detect the presence of HIV, its related antigens, or antibodies to HIV.</p> <p>"Semen bank" means a commercial or noncommercial activity involving the handling of human semen which participates in the collection, processing, storage or distribution of semen.</p>
§ 26:5C-22	<p><b>HIV test on potential semen donor; consent; payment; notification.</b></p> <p>a. A semen bank shall perform an HIV test on a potential donor prior to that person donating semen and shall freeze all donated semen for a waiting period of at least six months, in accordance with standards adopted by the United States Centers for Disease Control and Prevention.</p> <p>b. A semen bank shall perform the HIV test only after the donor has provided written informed consent according to standards adopted by the Commissioner of Health and Senior Services. A donor who refuses to provide written informed consent to an HIV test or tests positive for HIV shall not be permitted to donate semen.</p> <p>c. The cost of the HIV test shall be borne by the recipient of the donation.</p> <p>d. The Commissioner of Health and Senior Services shall establish procedures for notification by a semen bank to donors of screening results and referrals to appropriate counseling and health care services as necessary.</p>
C.26:5C-28	<p><b>Establishment, authorization by municipality of sterile syringe access program; requirements.</b></p> <p>b. A sterile syringe access program shall comply with the following requirements:</p> <p>(3) The program shall offer information about HIV, hepatitis C and other bloodborne pathogens and prevention materials at no cost to consumers,</p>

<b>NJ Title 26 Code §</b>	<b>Code Language</b>
	and shall seek to educate all consumers about safe and proper disposal of needles and syringes; (4) The program shall provide information and referrals to consumers, including HIV testing options, access to drug abuse treatment programs, and available health and social service options relevant to the consumer's needs, shall encourage consumers to receive an HIV test, and shall also, when appropriate, develop an individualized drug abuse treatment plan for each participating consumer;

**Title 30: Institutions and Agencies**

NJ Title 30 Code §	Code Language
§ 30:4-7.8	<p><b>Blood testing required upon admission; information; guidelines for treatment</b></p> <p>a. An adult patient who is admitted for treatment at a State psychiatric hospital shall be required, upon admission, to submit to blood testing for hepatitis B, hepatitis C, and sexually transmitted diseases, as determined by the Commissioner of Human Services. The guardian, or the patient at a time appropriate to the patient's psychiatric condition, shall be provided with information and counseling regarding the benefits of being tested for HIV infection. The guardian, or patient, shall then be presented with the option of HIV testing.</p> <p>b. The Commissioner of Human Services shall develop guidelines for the treatment and confinement of a patient who tests positive to any disease specified in subsection a. of this section, in consultation with the Commissioner of Health and Senior Services, and in accordance with recommended protocols established by the Centers for Disease Control and Prevention of the United States Public Health Services.</p> <p>c. All employees at a State psychiatric hospital shall be trained to use universal precautions to avoid infection with any sexually transmitted disease, hepatitis B or hepatitis C.</p>

<b>Title 52: State Government, Departments, and Officers</b>
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NJ Title 52 Code §	Code Language
§ 52:4B-44	<p><b>Standards for law enforcement agencies to ensure rights of crime victims</b></p> <p>a. The Attorney General shall, through the Office of Victim-Witness Advocacy in the Division of Criminal Justice in the Department of Law and Public Safety and in consultation with the county prosecutors, promulgate standards for law enforcement agencies to ensure that the rights of crime victims are enforced.</p> <p>b. The standards shall require that the Office of Victim-Witness Advocacy in the Division of Criminal Justice and each county prosecutor's office provide the following services upon request for victims and witnesses involved in the prosecution of a case:</p> <ol style="list-style-type: none"> <li>(1) Orientation information about the criminal justice system and the victim's and witness's role in the criminal justice process;</li> <li>(2) Notification of any change in the case status and of final disposition;</li> <li>(3) Information on crime prevention and on available responses to witness intimidation;</li> <li>(4) Information about available services to meet needs resulting from the crime and referrals to service agencies, where appropriate;</li> <li>(5) Advance notice of the date, time and place of the defendant's initial appearance before a judicial officer, submission to the court of any plea agreement, the trial and sentencing;</li> <li>(6) Advance notice of when presence in court is not needed;</li> <li>(7) Advice about available compensation, restitution and other forms of recovery and assistance in applying for government compensation;</li> <li>(8) A waiting or reception area separate from the defendant for use during court proceedings;</li> <li>(9) An escort or accompaniment for intimidated victims or witnesses during court appearances;</li> <li>(10) Information about directions, parking, courthouse and courtroom locations, transportation services and witness fees, in advance of court appearances;</li> <li>(11) Assistance for victims and witnesses in meeting special needs when required to make court appearances, such as transportation and child care arrangements;</li> <li>(12) Assistance in making travel and lodging arrangements for out-of-State witnesses;</li> <li>(13) Notification to employers of victims and witnesses, if cooperation in the investigation or prosecution causes absence from work;</li> <li>(14) Notification of the case disposition, including the trial and sentencing;</li> <li>(15) Assistance to victims in submitting a written statement to a representative of the county prosecutor's office about the impact of the crime prior to the prosecutor's final decision concerning whether formal charges will be filed;</li> <li>(16) Advice to victims about their right to make a statement about the impact of the crime for inclusion in the presentence report or at time of parole consideration, if applicable;</li> </ol>

NJ Title 52 Code §	Code Language
	<p>(17) Notification to victims of the right to make an in-person statement, prior to sentencing, directly to the sentencing court concerning the impact of the crime;</p> <p>(18) Expediting the return of property when no longer needed as evidence;</p> <p>(19) Advise and counsel, or refer for advice or counseling, victims of sexual assault, or other criminal acts involving a risk of transmission of disease, concerning available medical testing and assist such victims, or refer such victims for assistance, in obtaining appropriate testing, counseling and medical care and in making application to the Victims of Crime Compensation Board for compensation for the costs of such testing, counseling and care;</p> <p>(20) Assistance to victims in submitting a written impact statement to a representative of the county prosecutor's office concerning the impact of the crime which shall be considered prior to the prosecutor's accepting a negotiated plea agreement containing recommendations as to sentence and assistance to victims in securing an explanation of the terms of any such agreement and the reasons for the agreement;</p> <p>(21) Notification to the victim of the defendant's release from custody which shall include:</p> <p>(a) notice of the defendant's escape from custody and return to custody following escape;</p> <p>(b) notice of any other release from custody, including placement in an Intensive Supervision Program or other alternative disposition, and any associated conditions of release;</p> <p>(c) notice of the filing by an inmate of an application for commutation of sentence pursuant to <a href="#">N.J.S. 2A:167-4</a> and its disposition;</p> <p>(d) notice of parole consideration pursuant to provisions of P.L. 1979, c. 441 (<a href="#">C. 30:4-123.45</a> et seq.); and</p> <p>(e) notice of the pending release of an inmate due to expiration of sentence; and</p> <p>(22) Interpreting services for victims and witnesses when necessary to assist a victim or witness who is hearing impaired or developmentally disabled as defined in section 3 of P.L. 1977, c. 82 (<a href="#">C. 30:6D-3</a>) to understand questions and frame answers.</p> <p>c. In a case involving a victim of aggravated sexual assault or sexual assault as defined in subsection a. or c. of <a href="#">N.J.S. 2C:14-2</a>, the Office of Victim-Witness Advocacy or the county prosecutor's office involved in the case shall:</p> <p>(1) Notify the victim of the victim's right to obtain an approved serological test for acquired immune deficiency syndrome (AIDS) or infection with the human immunodeficiency virus (HIV) or any other related virus identified as a probable causative agent of AIDS, and assist the victim, or refer the victim for assistance, in obtaining a test and appropriate counseling and medical care;</p> <p>(2) Notify the victim of the victim's right to obtain a court order pursuant to subsection a. of section 4 of P.L. 1993, c. 364 (<a href="#">C. 2C:43-2.2</a>) requiring the offender to submit to an approved serological test for acquired immune deficiency syndrome (AIDS) or infection with the human immunodeficiency virus (HIV) or any other related virus identified as a probable causative</p>

NJ Title 52 Code §	Code Language
	<p>agent of AIDS in the event that the offender is indicted, formally charged, convicted or adjudicated delinquent;</p> <p>(3) Communicate the request of a victim who agrees to seek an order pursuant to subsection a. of section 4 of P.L. 1993, c. 364 (<a href="#">C. 2C:43-2.2</a>) to the prosecutor handling the case and notify the victim or arrange for the victim to be notified of the test result; and</p> <p>(4) Assist the victim in applying to the Victims of Crime Compensation Board for compensation for the costs of testing, counseling and medical care.</p> <p>d. The Attorney General shall, through the Office of Victim-Witness Advocacy and in consultation with the Commissioner of Health and Senior Services, the Superintendent of State Police and representatives of providers of sexual assault services, to be designated by the Director of the Office of Victim-Witness Advocacy, coordinate the establishment of standard protocols for the provision of information and services to victims of sexual assault, and shall make such protocols available to victims upon request, except that the provision of information and services with regard to emergency contraception and sexually transmitted diseases shall be in accordance with P.L. 2005, c. 50 (<a href="#">C. 26:2H-12.6b</a> et al.).</p> <p>e. In a case involving a victim of human trafficking as defined in section 1 of P.L. 2005, c. 77 (<a href="#">C. 2C:13-8</a>) the Office of Victim-Witness Advocacy or the county prosecutor's office involved in the case shall ensure that the victim of human trafficking obtains assistance in receiving any available benefits or services, including assistance in receiving any necessary certifications or endorsements needed to be recognized as having federal T non-immigrant status for the purpose of receiving any federal benefits or services available pursuant to the "Trafficking Victims Protection Reauthorization Act of 2003," <a href="#">22 U.S.C. s. 7101</a> et seq.</p> <p>f. The Attorney General shall, through the Office of Victim-Witness Advocacy and in consultation with the Commissioner of the Department of Health and Senior Services, the Superintendent of State Police and representatives of providers of services to victims of human trafficking, to be designated by the Director of the Office of Victim-Witness Advocacy, coordinate the establishment of standard protocols for the provision of information and services to victims of human trafficking, including coordination of efforts with the appropriate federal authorities pursuant to the "Trafficking Victims Protection Reauthorization Act of 2003," <a href="#">22 U.S.C. § 7101</a> et seq. and shall make such protocols available to victims upon request.</p>

**New Jersey Administrative Code – Title 6A: Department of Education**

<b>Title 6A NJAC</b>	<b>Code Language</b>
NJAC 6A:16-2.2	<b>Programs to Support Student Development - Required health services</b>  (j) Information concerning a student's HIV/AIDS status shall not be required as part of the medical examination or health history pursuant to N.J.S.A. 26:5C-1 et seq.

<b>Title 8 NJAC</b>	<b>Code Language</b>
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Title 8 NJAC	Code Language
8:8-6.5	<p><b>AIDS screening requirements</b></p> <p>(a) All blood and blood components collected in New Jersey are subject to the requirements of this section.</p> <p>(b) Educational material shall be given to the blood donors prior to the collection of blood which will allow donors to determine whether or not they have engaged in high risk behavior.</p> <p>(c) All donors including those utilized in hemapheresis, shall be screened by history for the early signs and symptoms of AIDS.</p> <p>(d) The collecting agency shall ensure that all blood and blood components collected in New Jersey, including those obtained by hemapheresis, be tested for HIV-1 and HIV-2 as specified in <a href="#">8:8-7.2</a>. Laboratory tests not performed by the collecting facility shall be referred to a blood bank or laboratory licensed to perform HIV testing by the Department as specified in <a href="#">8:8-3.1(c)2</a>. It shall be the responsibility of the receiving blood bank to assure that any blood brought in from out-of-state sources shall be tested for HIV types 1 and 2 in accordance with testing methods specified in AABB Standards and FDA regulations. If the blood is used for allogeneic transfusion, it shall be tested as all other blood and blood components.</p> <p>(e) Blood and blood components that are positive, as defined by Centers for Disease Control (CDC) in the "Morbidity and Mortality Weekly Report" of August 14, 1987, in "Laboratory Evidence for or Against HIV Infection," as amended and supplemented, incorporated herein by reference, to serologic tests for HIV types 1 and 2 or collected from a donor known to be positive to serologic tests for HIV types 1 and 2 shall either be discarded or used for research purposes only.</p> <p>(f) Prior to a donation of blood or blood component each donor shall be notified in writing and shall have signed a written statement confirming that</p> <ol style="list-style-type: none"> <li>1. The blood or blood components shall be tested for evidence of the probable causative agent of acquired immune deficiency syndrome.</li> <li>2. Donors found to have serologic evidence of HIV shall be placed on a confidential internal deferral list and may, if deemed appropriate by the Department, a confidential statewide deferral list.</li> <li>3. The donor shall be notified of the test results in accordance with requirements described in (i) below.</li> <li>4. Blood or blood components shall not be donated for transfusion purposes by a person if the person has reason to believe that he or she has engaged in high risk behavior.</li> </ol> <p>(g) All blood banks shall notify the donor of results when there is</p>

<b>Title 8 NJAC</b>	<b>Code Language</b>
	<p>serologic evidence of the probable causative agent of AIDS as currently outlined by the Department.</p> <p>(h) Reactive donors shall be notified and counseled in person. Every effort shall be made to accomplish face to face notification and counseling.</p> <p>(i) Blood banks shall maintain records pertaining to all HIV requirements and test results. These records shall be kept in a confidential manner.</p> <p>(j) Testing facilities shall participate in a proficiency program acceptable to the Department.</p>
8:44-3.1	<p><b>Limited purpose laboratory; definition and minimum protocols</b></p> <p>(a) "Limited purpose laboratory" means a facility operated by a not-for-profit organization receiving grant funds from the Department of Health and Senior Services, hereinafter known as the Department, to operate a counseling and testing site to conduct rapid FDA licensed point-of-care tests for Human Immunodeficiency Virus (HIV).</p> <p>(b) A limited purpose laboratory shall establish the following protocols at a minimum:</p> <ol style="list-style-type: none"> <li>1. Follow-up protocols to ensure that Food and Drug Administration (FDA) approved confirmatory testing is performed;</li> <li>2. A protocol for the review of test results by the laboratory director and general supervisor;</li> <li>3. Protocols to ensure that individuals with abnormal results are referred to an appropriate source of medical care and prevention services; and</li> <li>4. Personnel policies, practices and procedures that adequately support sound rapid FDA licensed point-of-care testing practices.</li> </ol>
8:44-3.4	<p><b>Supervision</b></p> <p>(a) A limited purpose laboratory shall be supervised by a person, designated as the general supervisor, who can be, but is not limited to being, a physician, professional registered nurse, counseling and testing site coordinator, or health educator, approved by the laboratory director, who, under the general direction of the laboratory director, supervises testing personnel and the report of findings, and in the absence of the laboratory director, is responsible for the proper performance of all laboratory procedures.</p> <ol style="list-style-type: none"> <li>1. Limited purpose laboratory records including, but not limited to, patient accession, testing, test results, quality control and temperature monitoring, shall be reviewed at least monthly by the laboratory director, general supervisor, or qualified designee of the laboratory director</li> </ol> <p>(b) The rapid FDA licensed point-of-care test for Human</p>

<b>Title 8 NJAC</b>	<b>Code Language</b>
	<p>Immunodeficiency Virus (HIV) shall be performed by personnel, such as professional registered nurses, technicians or non-professionals, who have been trained in accordance with the provisions of the Centers for Disease Control and Prevention (CDC) Quality Assurance Guidelines for Testing using the OraQuick Rapid HIV-1 Antibody Test, hereinafter known as the CDC Quality Assurance Guidelines, which are incorporated herein by reference, as amended and supplemented, and available at <a href="http://www.cdc.gov/hiv/rapid_testing/materials/QA-Guide.htm">http://www.cdc.gov/hiv/rapid_testing/materials/QA-Guide.htm</a>. The laboratory director shall develop testing and operational protocols, which meet or exceed those issued by the CDC.</p> <p>(c) The laboratory director shall revise quality assurance, testing, and operational protocols and provide training of testing personnel and supervisors, for any new additional point of care rapid HIV test authorized by the Department for use in limited purpose laboratories subsequent to the adoption of these regulations.</p>
8:44-3.7	<p><b>Procedure manual</b></p> <p>A procedure manual shall be kept for all protocols and all procedures used for the rapid FDA licensed point-of-care test for Human Immunodeficiency Virus (HIV) performed or offered by the limited purpose laboratory. Each protocol or procedure shall be reviewed and dated by the laboratory director at least annually.</p>
8:44-3.12	<p><b>Examinations and reports</b></p> <p>(a) A limited purpose laboratory shall perform tests at the request of a licensed physician or other person qualified by law to order tests. The request need not be patient specific and can be a standing order.</p> <p>(b) The results of the rapid FDA licensed point-of-care test for Human Immunodeficiency Virus (HIV) performed by a limited purpose laboratory shall be conveyed to the patient by a New Jersey Department of Health and Senior Services trained HIV counselor.</p> <p>(c) When requested, the original or true duplicate of the results shall be sent promptly to the physician who is designated by the individual patient to receive a report.</p>
8:57-2.1	<p><b>Applicability; definition of AIDS, HIV infection, perinatal HIV exposure, and CD4 count</b></p> <p>(a) The provisions of this subchapter are applicable to cases of Acquired Immunodeficiency Syndrome (AIDS) and infection with human immunodeficiency virus (HIV). The provisions of N.J.A.C. 8:57-1 shall not apply to any case of AIDS or infection with HIV.</p> <p>(b) Laboratory results indicative of infection with HIV shall mean laboratory results showing the presence of HIV or components of HIV, or</p>

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	<p>laboratory results showing the presence of antibodies to HIV, or results from laboratory tests conducted to measure the quantitative presence of HIV RNA (viral load tests), such as quantitative PCR tests. The Commissioner, Department of Health and Senior Services shall determine the laboratory tests or test results which indicate infection with HIV for the purpose of these rules. Any such determination shall take effect automatically, without modifying the definition of laboratory results indicative of infection with HIV.</p> <p>(c) Acquired immunodeficiency syndrome (AIDS) means a condition affecting a person who has a reliably diagnosed disease that meets the criteria for AIDS specified by the Centers for Disease Control of the United States Public Health Services.</p> <p>(d) A CD4 count means a count of lymphocytes containing the CD4 epitope as determined by the results of lymphocyte phenotyping. An absolute CD4 count means the number of lymphocytes containing the CD4 epitope per cubic millimeter. A relative CD4 count means the number of such cells expressed as a percentage of total lymphocytes.</p> <p>(e) A child who is perinatally exposed to HIV is a child born to a woman who is known to be HIV infected at the time of delivery, either through HIV testing prior to or during her pregnancy, or who has been diagnosed as HIV infected through other medical evidence. A child may also be determined to be perinatally exposed through testing at or following birth.</p>
8:57-2.2	<p><b>Reporting HIV Infection</b></p> <p>(a) Every physician attending a person found to be infected with HIV, or ordering a test resulting in the diagnosis of HIV, shall, within 24 hours of receipt of a laboratory report indicating such a condition, or within 24 hours of making a diagnosis of HIV infection or AIDS, report in writing such condition directly to the Department of Health and Senior Services on forms supplied by the Department of Health and Senior Services. The report shall include the name and address of the reporting physician, the name, address, gender, race and birth date of the person found to be infected with HIV, the date the specimen tested for HIV was obtained, and such other information as may be required by the Department of Health and Senior Services. A physician shall not report a person infected with HIV if the physician is aware that the person having control or supervision of an institution named in (b) below is reporting that person as being infected with HIV, or if the physician is aware that the person has previously been reported to the Department of Health and Senior Services as being infected with HIV. The Department of Health and Senior Services may also collect additional information on persons previously reported, for either audit or epidemiological purposes.</p>
8:57-2.3	<p><b>Reporting children perinatally exposed to HIV</b></p>

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	<p>(a) Every physician attending a child known to be perinatally exposed to HIV, or ordering a test resulting in the diagnosis of perinatally exposed to HIV, shall, within 24 hours of receipt of a laboratory report indicating such a condition report in writing such condition directly to the Department of Health and Senior Services on forms supplied by the Department of Health and Senior Services. The report shall include the information as in N.J.A.C. 8:57- 2.2(a), and such other information as may be required by the Department of Health and Senior Services. A physician shall not report the child perinatally exposed to HIV if the physician is aware that the person having control or supervision of an institution named in (b) below is reporting that child as being infected with HIV, or if the physician is aware that the child has previously been reported to the Department of Health and Senior Services as being perinatally exposed to HIV.</p> <p>The Department of Health and Senior Services may also collect additional information on children previously reported, for either audit or epidemiological purposes.</p>
8:57-2.4	<p><b>Reporting AIDS</b></p> <p>(a) Every physician attending any person ill with AIDS shall, within 24 hours of the time AIDS is diagnosed, report in writing such condition directly to the Department of Health and Senior Services on forms supplied by the Department of Health and Senior Services. The report shall include the name and address of the reporting physician, the name, address, gender, race, and birth date of the person ill with AIDS, the date of onset of the illness meeting the criteria for the diagnosis of AIDS, and such other information as may be required by the Department of Health and Senior Services. Such report should be made whether or not the patient previously had been reported as having HIV infection. The report of AIDS will be deemed to also be a report of HIV infection. The Department of Health and Senior Services may also collect additional information on persons previously reported, for either audit or epidemiological purposes.</p>
8:57-2.5	<p><b>Testing procedures</b></p> <p>No physician or institution may direct a person to be tested for HIV, a component of HIV, or antibodies to HIV, unless the name and address of the person whose specimen is being tested is known and recorded by the physician or institution, except that the Commissioner, Department of Health and Senior Services may designate facilities which are permitted to test for antibodies to HIV without obtaining the name and address of the person being tested. The name and address of a person requesting testing without giving his or her name and address at such a designated facility are not required to be reported to the Department of Health and Senior Services.</p>
8:57-2.6	<p><b>Exceptions to communicable disease classification of AIDS and</b></p>

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	<p><b>HIV</b></p> <p>(a) AIDS or HIV infection shall not be considered a communicable disease for purposes of admission to, attendance in, or transportation in any of the following:</p> <ol style="list-style-type: none"> <li>1. Nursing homes and other health care facilities;</li> <li>2. Rooming and boarding homes, and shelters for the homeless;</li> <li>3. Ambulances and other public conveyances; and</li> <li>4. Educational facilities.</li> </ol>
8:57-2.7	<p><b>Access to information</b></p> <p>As provided by N.J.S.A. 26:4-2 and 26:5C-5 through 14, the information reported to the Department shall not be subject to public inspection, but shall be subject to access only by the Department of Health and Senior Services for public health purposes.</p>
8:57-2.8	<p><b>Failure to comply with reporting requirements</b></p> <p>(a) Physicians failing to fulfill the reporting requirements of this subchapter may receive written notification of this failure. Physicians failing to meet these reporting requirements, despite warning, shall be subject to fines, as allowed by N.J.S.A. 26:4-129. In addition, those whose failure to report is determined by the Department of Health and Senior Services to have significantly hindered public health control measures shall be subject to other actions, including notification of the Board of Medical Examiners of the State Department of Law and Public Safety, and appropriate hospital medical directors or administrators.</p> <p>(b) The person having control or supervision over any institution, who fails to fulfill the aforementioned reporting obligations, may receive written notification of this failure. Superintendents failing to meet these reporting requirements, despite warning, shall be subject to a fine, as allowed by N.J.S.A. 26:4-129. In addition, those whose failure to report is determined by the Department of Health and Senior Services to have significantly hindered public health control measures, shall be subject to other actions, including notification of the Department of Health and Senior Services, Division of Health Planning and Regulation, other appropriate licensing review organizations, and other appropriate agencies.</p> <p>(c) Laboratory supervisors failing to fulfill the aforementioned reporting obligations may receive written notification of this failure. Supervisors failing to meet these requirements, despite warning, shall be subject to fines as allowed by N.J.S.A. 26:4-129. In addition, those whose failure to report is determined by the Department of Health and Senior Services to have significantly hindered public health control measures, shall be subject to other actions, including notification of the State Clinical Laboratory Improvement Services.</p>

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8:61-4.1	<p><b>HIV counseling and testing of pregnant women</b></p> <p>(a) A physician or other licensed health care practitioner acting within his or her scope of practice who is the primary caregiver for a pregnant woman, or who makes a diagnosis of pregnancy, or who is the primary caregiver for a woman who seeks treatment relating to the pregnancy within four weeks of giving birth (hereinafter referred to as "provider"), shall provide information on HIV and AIDS and offer testing for HIV infection to all pregnant women or a woman who seeks treatment within four weeks of being postpartum to whom he or she is providing care, unless it is known by the provider that the woman has already been given the required information and has been tested for HIV infection during her pregnancy or within four weeks of being postpartum. The provider may delegate the tasks of providing to the patient information on HIV and AIDS and offering the patient HIV testing to another licensed health care practitioner whose scope of practice would include these tasks, or to a trained HIV counselor.</p> <p>1. The provider, as the patient's primary caregiver, shall retain the responsibility of ensuring that the delegated tasks are actually performed in the manner required under this section and that the performance of the delegated tasks is within either:</p> <p>i. The scope of practice of the health care practitioner to whom the tasks are delegated; or</p> <p>ii. The level of capabilities in which the HIV counselor has been trained.</p> <p>(b) The provider shall comply with this section when the provider in the reasonable exercise of professional judgment and within the provider's licensed scope of practice knows or should know that a patient is pregnant.</p> <p>(c) The provider shall ask that the woman sign a form, prepared by the Department, acknowledging that she has received the required information and indicated her preference regarding testing for HIV infection. Blank copies of this form will be made available to physicians, who may reproduce as many copies as necessary for use in their practice. In addition, the form shall be available for download from the Department's website at <a href="http://nj.gov/health/forms/index.shtml">http://nj.gov/health/forms/index.shtml</a>, and shall be available upon request by writing to the Division of HIV/AIDS Services, New Jersey Department of Health and Senior Services, 50 East State Street, 3rd Floor, PO Box 363, Trenton, NJ 08625-0363 or by telephoning (609) 984-5874.</p> <p>1. If the woman refuses to sign the form, the provider shall enter a note into the women's medical record. The note shall document the provider's provision in good faith of the required information and offer of testing in a manner that afforded informed consent, and shall describe the provider's efforts to address patient-specific needs and factors such as language barriers and comprehension ability.</p> <p>(d) The provider may use a different form than the one provided by the</p>

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	<p>Department, provided that the woman's signature is obtained and the physician's form contains, at a minimum, all of the information on the form prepared by the Department. Specifically, any substitute form shall contain a statement that the woman has received information concerning:</p> <ol style="list-style-type: none"> <li>1. How HIV is transmitted;</li> <li>2. The benefits of voluntary testing for HIV infection and of knowing whether or not she is infected with HIV;</li> <li>3. The treatments that are available to her and her child should the test be positive; and</li> <li>4. The right to refuse the test and without fear of denial of appropriate prenatal care due to this refusal. The form shall also indicate whether or not the woman has decided to be tested for HIV infection.</li> </ol> <p>(e) The provider shall make every reasonable effort to provide the woman with the results of the test for HIV infection, and the meaning of those results. The provider shall advise women who have a negative test result of measures to prevent HIV infection. The provider shall advise women who test positive or indeterminate of:</p> <ol style="list-style-type: none"> <li>1. The appropriateness of and need for further testing;</li> <li>2. Methods to prevent transmission of HIV;</li> <li>3. Appropriate medical care for the woman;</li> <li>4. Recommended treatment to reduce the risk of mother-to-infant transmission of HIV; and</li> <li>5. The availability of appropriate social and other necessary services.</li> </ol> <p>(f) A provider who cannot follow through with counseling or further care of a woman with a positive or indeterminate test result shall initiate a referral to another health care practitioner who, within the scope of practice of the particular practitioner, is able to and will provide counseling and care for the woman.</p> <p>(g) Information and test results obtained pursuant to this section shall be held confidential in accordance with N.J.S.A. 26:5C-5 et seq., as amended and supplemented, and 8:57-2, as amended and supplemented. For the purposes of disease prevention and control, the provider may make the woman's test results known to the health care practitioner caring for the woman's infant. The Department or its designee may contact an HIV-positive woman or her infant's health care practitioner to follow up on the HIV status and HIV-related care of the infant. The health care practitioner caring for the infant shall also keep this information confidential in accordance with N.J.S.A. 26:5C-5 et seq., as amended and supplemented, and 8:57-2, as amended and supplemented.</p> <p>(h) The following guidance documents containing recommendations for counseling and treating pregnant women with respect to HIV are available upon request by writing to the Division of HIV/AIDS Services, New Jersey Department of Health and Senior Services, 50 East State Street, 3rd Floor, PO Box 363, Trenton, NJ 08625-0363 or by telephoning</p>

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	<p>(609) 984-5874:</p> <ol style="list-style-type: none"> <li>1. HIV Counseling and Testing in Pregnancy, Vol. 100, No. 9, New Jersey Medicine, Supplement at 22, (September 2003), downloaded at <a href="http://www.state.nj.us/health/aids/counseling_testing_pregnancy.pdf">http://www.state.nj.us/health/aids/counseling_testing_pregnancy.pdf</a>;</li> <li>2. Updated Recommendations for Reducing Vertical HIV Transmission, Vol. 100, No. 9, New Jersey Medicine, Supplement at 27, (September 2003), downloaded at <a href="http://www.state.nj.us/health/aids/vertical_transmission.pdf">http://www.state.nj.us/health/aids/vertical_transmission.pdf</a>; and</li> <li>3. Standard of Care for Women who Present in Labor with Unknown HIV Serostatus, downloaded at <a href="http://www.state.nj.us/health/aids/stdcare.pdf">http://www.state.nj.us/health/aids/stdcare.pdf</a>.</li> </ol>
8:61-5.1	<p><b>Disclosure of information to full-time caregivers</b></p> <p>The contents of a child's HIV/AIDS records may be disclosed by health care providers to the Division of Youth and Family Services. The Division of Youth and Family Services may disclose such information on a need-to-know basis to private adoption agencies certified by the Division of Youth and Family Services and to foster care agencies with which the Division of Youth and Family Services contracts. The Division of Youth and Family Services, private adoption agencies certified by the Division of Youth and Family Services, and foster care agencies with which the Division of Youth and Family Services contracts may disclose the contents of a child's HIV/AIDS record on a need-to-know basis for the care and treatment of the child to any full-time caregiver. Individuals receiving such information shall keep the information confidential, pursuant to N.J.S.A. 26:5C-10.</p>

<b>New Jersey Administrative Code – Title 13: Law and Public Safety</b>	
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<b>Title 13 NJAC</b>	<b>Code Language</b>
13:34C-2.3	<p><b>Application procedure: certified alcohol and drug counselor</b></p> <p>4. Completed 270 hours of alcohol and drug education, approved by member boards of the International Certification Reciprocity Consortium of Alcohol and Other Drug Abuse, Inc. (ICRC), the NADAAC, the Association for Addiction Professionals or a regionally accredited college or university, which shall be related to the knowledge and skill associated with the functions of an alcohol and drug counselor, including formal classroom education, workshops, seminars, institutes, in-service training or a maximum of 54 course hours in distance learning programs as follows:</p> <p>iii. Fifty-four course hours of case management, with a minimum of six hours in each of the topics and distributed among all of the following:</p> <ul style="list-style-type: none"> <li>(1) Community resources;</li> <li>(2) Consultation;</li> <li>(3) Documentation; and</li> <li>(4) HIV positive resources;</li> </ul>
13:35-6.24	<p><b>Board of Medical Examiners - Reporting of communicable diseases by licensees</b></p> <p>(a) A licensee shall report a case of a communicable disease in accordance with Department of Health and Senior Services regulations at 8:57-1.</p> <p>(b) A licensee shall report a case of Acquired Immunodeficiency Syndrome (AIDS) and infection with Human Immunodeficiency Virus (HIV) in accordance with Department of Health and Senior Services regulations at 8:57-2.</p> <p>(c) Failure to report pursuant to the requirements of this section shall constitute professional misconduct subjecting the licensee to disciplinary action by the Board.</p>
13:37-14.4	<p><b>Homemaker-home health aide training program</b></p> <p>(d) The curriculum for a homemaker-home health aide training program shall include instruction in:</p> <p>3. Foundations for a safe client environment, including:</p> <p>v. Infection control, including the chain of infection, standard precautions, hazardous waste and special concerns regarding tuberculosis (TB), Human Immunodeficiency Virus (HIV) and Hepatitis B;</p>
13:46-12A.5	<p><b>HIV examination</b></p> <p>All boxers in all bouts shall complete an HIV examination. An HIV test</p>

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	shall be completed by every boxer prior to his or her participation in each boxing match. Pre-fight HIV tests shall be administered no earlier than 180 days prior to the boxing match. Any boxer who fails to produce the results of such a test, or who produces a test result showing that the boxer is infected with the HIV virus, shall not be permitted to box in this State. In addition to the negative test result, a Communicable Bodily Fluid Virus High-Risk Questionnaire must be completed no earlier than 180 days prior to participation in each scheduled competition.