

# Virginia

## Introduction and Table of Contents

April 8, 2011

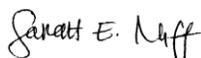
To the Reader:

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,



Sarah E. Neff, MPH  
Director of Research and Evaluation

&



Ronald H. Goldschmidt, MD  
Director

National HIV/AIDS Clinicians' Consultation Center (NCCC)  
San Francisco General Hospital  
University of California, San Francisco

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)**.

<b>Table of Contents</b>	<b>i</b>
Definitions and Helpful Resources	ii
Quick Reference Guide for Clinicians to Virginia HIV Testing Laws	iii
Perinatal Quick Reference Guide for Clinicians	iv
State Policies Relating to HIV testing, 2011	VA-1 – VA-33

## Definitions and Helpful Resources

April 8, 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.<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>

# Virginia

## A Quick Reference Guide for Clinicians to Virginia HIV Testing Laws

April 8, 2011

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

### Informed Consent

- Prior to an HIV test, a medical care provider shall inform the patient that the test is planned, provide information about the test, and advise the patient that he has the right to decline the test. If a patient declines the test, the medical care provider shall note that fact in the patient’s medical file. Opt-out process implied. Compatible with CDC Recommendations.

### Counseling

- Persons who test positive shall be afforded individual face-to-face disclosure and the opportunity for post-test counseling.
- Appropriate counseling shall include, but not be limited to, the meaning of the test results, the need for additional testing, the etiology, prevention and effects of acquired immunodeficiency syndrome, the availability of appropriate health care, mental health care and social services, the need to notify any person who may have been exposed to the virus and the availability of assistance through the Department of Health in notifying such individuals.

### 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 or contacts were found.

### Minor/Adolescent Testing

- Minors may consent to HIV testing.
- Physicians may, but are not required to, notify the parents of the HIV test result.

# Virginia

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

### **A Guide to Virginia Perinatal HIV Testing Laws for Clinicians**

April 8, 2011

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

- As a part of routine prenatal care . . .
  - Testing of pregnant women is through the opt-out process; documentation of refused testing and/or treatment must be maintained in the medical record;
  - Practitioner must offer oral or written information including
    - (A) an explanation of HIV infection,
    - (B) a description of interventions that can reduce HIV transmission from mother to infant, and
    - (C) the meaning of positive and negative test results
  - Practitioners shall counsel all pregnant women with HIV positive test results about the dangers to the fetus and the advisability of receiving treatment in accordance with the then current Centers for Disease Control and Prevention recommendations.

#### **Labor & Delivery**

- No specific provisions regarding labor & delivery testing were found.

#### **Neonatal**

- No specific provisions regarding neonatal testing were found.

#### **Other**

- **Counseling**
  - Appropriate counseling shall include, but not be limited to,
    - (A) the meaning of the test results;
    - (B) the need for additional testing;
    - (C) the etiology, prevention and effects of AIDS;
    - (D) the availability of appropriate health care, mental health care and social services;
    - (E) the need to notify any person who may have been exposed to the virus; and the availability of assistance through the Department of Health in notifying such individuals.

# Virginia State Policies Relating to HIV Testing, 2011

## Table of Contents

### Code of Virginia Annotated [VC]

**Title 18.2: Crimes and Offenses Generally**..... Pages 5-7  
**Title 32.1: Health** ..... Pages 8-19  
**Title 38.2: Insurance**..... Page 20  
**Title 53.1: Prisons and Other Methods of Correction** ..... Page 21  
**Title 54.1: Professions and Occupations**..... Page 22

### Virginia Administrative Code [VAC]

**Title 12: Health**..... Pages 23-29  
**Title 14: Insurance**..... Pages 30-34

	Policy Category	Type	Section Code(s)
RESTRICTIONS/ MANDATES	Restrictions on use of HIV test	Positive HIV test prohibited for making AIDS diagnosis in determining insurance coverage	14VAC5-180-60
	Mandatory testing within the criminal justice system	Persons charged with a sex offense	VC §18.2-62
		Convicted prostitutes and injection drug users	VC §18.2-346.1
	Mandatory testing outside of the criminal justice system	Occupational exposure – health care providers, public safety employees, school board employees	VC §32.1-45.1 VC §32.1-45.2
		Semen/ova donations	VC §32.1-45.3 12VAC5-90-250 12VAC5-90-260
PRE-TESTING	Mandatory offering of HIV/AIDS information and/or testing	Contacts of HIV infection	12VAC5-90-100
		The Department shall offer to test each inmate, who does not have a record of a positive test result, with informed consent within 60 days of the scheduled discharge of the inmate from a state correctional facility.	VC § 53.1-33.1
		Pregnant and postpartum women in residential substance abuse treatment must be provided testing, counseling in order to get Medicaid reimbursement	12VAC30-50-510

	Informed consent	Prior to test, a medical care provider shall inform the patient that the test is planned, provide information about the test, and advise the patient that he has the right to decline the test. Declination must be noted in medical file; Opt-out process implied	VC §32.1-37.2	
		Informed consent deemed obtained for persons seeking services at anonymous testing sites and for blood donations	VC §32.1-37.2	
		Informed consent deemed obtained for source patients in cases of occupational exposure	VC §32.1-45.1	
		Written informed consent required for insurance testing	14VAC5-180-50	
	Counseling requirements	With HIV+ test results, mandatory offering of face-to-face disclosure and post-test counseling	VC §32.1-37.2	
		Counseling offered to contacts of HIV infection	12VAC5-90-100	
		Mandatory post-test counseling for pregnant women with HIV positive results	VC §54.1-2403.01	
	Anonymous testing	Board of Health sponsors anonymous testing sites	VC §32.1-55.1	
	POST-TESTING	Disclosure/confidentiality	HIV test results confidential	VC §32.1-127.1:03 VC §32.1-36.1 12VAC5-90-90
			Penalties for unlawful disclosure	VC §32.1-36.1
Disclosure to funeral directors			12VAC5-90-90(F)	
Reporting		Name-based reporting	VC §32.1-36 VC §32.1-116.3 12VAC5-90-90	
		Secondary report for confirmed or suspected TB-infected patient must include HIV status	12VAC5-90-225	
OTHER	Testing of pregnant women and/or newborns	Pregnant women as a routine component of prenatal care – opt-out testing	VC §54.1-2403.01 12VAC5-90-130	
		Practitioner, as a part of routine prenatal care, must offer oral or written information including an	VC §54.1-2403.01	

	explanation of HIV infection, a description of interventions that can reduce HIV transmission from mother to infant, and the meaning of positive and negative test results	
	HIV+ counseling about the dangers to the fetus and the advisability of receiving treatment in accordance with the then current Centers for Disease Control and Prevention recommendations	VC §54.1-2403.01 12VAC5-90-130
	Refusal of testing and/or treatment must be documented in the medical record	VC §54.1-2403.01 12VAC5-90-130
Testing of minors/adolescents	Minors may consent to services for venereal disease and any reportable infectious or contagious disease	VC §54.1-2969
	Minors may consent to HIV testing and treatment	VC § 54.1-2969 12VAC5-90-80
	Physician, may but is not required to, inform parents or guardians	VC §32.1-36.1 VC §32.1-69
	Occupational exposure – if minor refuses consent, parents may consent. If parents refuse, potentially exposed person must petition the juvenile and domestic relations district court	VC § 32.1-45.1(K)
Rapid HIV testing	No related laws found	
Training and education of health care providers	No related laws found	

## Recommended Resources

### The Code of Virginia

<http://leg1.state.va.us/000/src.htm>

### Virginia Administrative Code

<http://leg1.state.va.us/000/srr.htm>

### Virginia Department of Health

<http://www.vdh.state.va.us/>

<b>Title 18.2: Crimes and Offenses Generally</b>
--------------------------------------------------

VA Title 18.2 Code §	Code Language
§ 18.2-62	<p><b>Testing of certain persons for human immunodeficiency virus or hepatitis B or C viruses</b></p> <p>A. As soon as practicable following arrest, the attorney for the Commonwealth may request, after consultation with any victim, that any person charged with (i) any crime involving sexual assault pursuant to this article, (ii) any offenses against children as prohibited by §§ 18.2-361, 18.2-366, 18.2-370, and 18.2-370.1, or (iii) any assault and battery in which the victim was exposed to body fluids of the person arrested, be requested to submit to testing for infection with human immunodeficiency virus or hepatitis B or C viruses. The person so charged shall be counseled about the meaning of the test, about acquired immunodeficiency syndrome or hepatitis B or C viruses, and about the transmission and prevention of infection with human immunodeficiency virus or hepatitis B or C viruses.</p> <p>If the person so charged refuses to submit to the test or the competency of the person to consent to the test is at issue, the court with jurisdiction of the case shall hold a hearing to determine whether there is probable cause that the individual has committed the crime with which he is charged. If the court finds probable cause, the court shall order the accused to undergo testing for infection with human immunodeficiency virus or hepatitis B or C viruses. The court may enter such an order in the absence of the defendant if the defendant is represented at the hearing by counsel or a guardian ad litem. The court's finding shall be without prejudice to either the Commonwealth or the person charged and shall not be evidence in any proceeding, civil or criminal.</p> <p>B. Upon conviction, or adjudication as delinquent in the case of a juvenile, of any crime involving sexual assault pursuant to this article or any offenses against children as prohibited by §§ 18.2-361, 18.2-366, 18.2-370, and 18.2-370.1, the attorney for the Commonwealth may, after consultation with any victim and, upon the request of any victim shall, request and the court shall order the defendant to submit to testing for infection with human immunodeficiency virus or hepatitis B or C viruses. Any test conducted following conviction shall be in addition to such tests as may have been conducted following arrest pursuant to subsection A.</p> <p>C. Confirmatory tests shall be conducted before any test result shall be determined to be positive. The results of the tests for infection with human immunodeficiency virus or hepatitis B or C viruses shall be confidential as provided in § 32.1-36.1; however, the Department of Health shall also disclose the results to any victim and offer appropriate counseling as provided by subsection B of § 32.1-37.2. The Department shall conduct surveillance and investigation in accordance with § 32.1-39.</p> <p>The results of such tests shall not be admissible as evidence in any criminal proceeding.</p>

VA Title 18.2 Code §	Code Language
	The cost of such tests shall be paid by the Commonwealth and taxed as part of the cost of such criminal proceedings.
§ 18.2-346.1	<p><b>Testing of convicted prostitutes and injection drug users for infection with human immunodeficiency viruses and hepatitis C; limited disclosure</b></p> <p>A. As soon as practicable following conviction of any person for violation of § 18.2-346 or 18.2-361, or any violation of Article 1 (§ 18.2-247 et seq.) or 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 involving the possession, sale, or use of a controlled substance in a form amenable to intravenous use; or the possession, sale, or use of hypodermic syringes, needles, or other objects designed or intended for use in parenterally injecting controlled substances into the human body, such person shall be required to submit to testing for infection with human immunodeficiency viruses and hepatitis C. The convicted person shall receive counseling from personnel of the Department of Health concerning (i) the meaning of the test, (ii) acquired immunodeficiency syndrome and hepatitis C, and (iii) the transmission and prevention of infection with human immunodeficiency viruses and hepatitis C.</p> <p>B. Tests for human immunodeficiency viruses shall be conducted to confirm any initial positive test results before any test result shall be determined to be positive for infection. The results of such test shall be confidential as provided in § 32.1-36.1 and shall be disclosed to the person who is the subject of the test and to the Department of Health as required by § 32.1-36. The Department shall conduct surveillance and investigation in accordance with the requirements of § 32.1-39.</p> <p>C. Upon receiving a report of a positive test for hepatitis C, the State Health Commissioner may share protected health information relating to such positive test with relevant sheriffs' offices, the state police, local police departments, adult or youth correctional facilities, salaried or volunteer firefighters, paramedics or emergency medical technicians, officers of the court, and regional or local jails (i) to the extent necessary to advise exposed individuals of the risk of infection and to enable exposed individuals to seek appropriate testing and treatment, and (ii) as may be needed to prevent and control disease and is deemed necessary to prevent serious harm and serious threats to the health and safety of individuals and the public.</p> <p>The disclosed protected health information shall be held confidential; no person to whom such information is disclosed shall redisclose or otherwise reveal the protected health information without first obtaining the specific authorization from the individual who was the subject of the test for such redisclosure.</p> <p>Such protected health information shall only be used to protect the health and safety of individuals and the public in conformance with the regulations concerning patient privacy promulgated by the federal</p>

<b>VA Title 18.2 Code §</b>	<b>Code Language</b>
	<p>Department of Health and Human Services, as such regulations may be amended.</p> <p>D. The results of the tests shall not be admissible in any criminal proceeding related to prostitution or drug use.</p> <p>The cost of the tests shall be paid by the Commonwealth and taxed as part of the cost of such criminal proceedings.</p>

<b>Title 32.1: Health</b>	
---------------------------	--

VA Title 32.1 Code §	Code Language
§ 32.1-36	<p><b>Reports by physicians and laboratory directors</b></p> <p>A. Every physician practicing in this Commonwealth who shall diagnose or reasonably suspect that any patient of his has any disease required by the Board to be reported and every director of any laboratory doing business in this Commonwealth that performs any test whose results indicate the presence of any such disease shall make a report within such time and in such manner as may be prescribed by regulations of the Board. Any such report involving a disease that such physician or laboratory director has reason to believe may be caused by exposure to an agent or substance that has been or may be used as a weapon shall be reported directly to the Commissioner or his designee using an emergency response system maintained by the Department and operated twenty-four hours a day.</p> <p>B. Any physician who diagnoses a venereal disease in a child twelve years of age or under shall, in addition to the requirements of subsection A hereof, report the matter, in accordance with the provisions of § 63.2-1509, unless the physician reasonably believes that the infection was acquired congenitally or by a means other than sexual abuse.</p> <p>C. Any physician practicing in this Commonwealth shall report to the local health department the identity of any patient of his who has tested positive for exposure to human immunodeficiency virus as demonstrated by such test or tests as are approved by the Board for this purpose. However, there is no duty on the part of the physician to notify any third party other than the local health department of such test result, and a cause of action shall not arise from any failure to notify any other third party.</p> <p>D. Upon investigation by the local health department of a patient reported pursuant to subsection A, the Commissioner may, to the extent permitted by law, disclose the patient's identity and disease to the patient's employer if the Commissioner determines that (i) the patient's employment responsibilities require contact with the public and (ii) the nature of the patient's disease and nature of contact with the public constitutes a threat to the public health.</p> <p>The patient's identity and disease state shall be confidential as provided in §§ 32.1-36.1 and 32.1-41. Any unauthorized disclosure of reports made pursuant to this section shall be subject to the penalties of § 32.1-27.</p> <p>E. Physicians and laboratory directors may voluntarily report additional information at the request of the Department of Health for special surveillance or other epidemiological studies.</p> <p>F. 1. Every laboratory located in this Commonwealth shall file a written</p>

VA Title 32.1 Code §	Code Language
	<p>report with the Department of its inventory of dangerous microbes and pathogens on an annual basis. The laboratory shall supplement this report upon any change in such inventory as prescribed by the Board or immediately if any microbes or pathogens cannot be accounted for within twenty-four hours.</p> <p>2. Except as provided in this subsection, a report submitted pursuant to this subsection shall be confidential and shall not be a public record pursuant to the Freedom of Information Act (§ 2.2-3700 et seq.). The Department shall cooperate with and may share information submitted to it pursuant to this subsection with the United States Centers for Disease Control and Prevention, and state and federal law-enforcement agencies in any investigation involving the release, theft or loss of a dangerous microbe or pathogen required to be reported under this subsection.</p> <p>3. Any unauthorized disclosure of reports made pursuant to this subsection shall be subject to the penalties of § 32.1-27.</p>
§ 32.1-36.1	<p><b>Confidentiality of test for human immunodeficiency virus; civil penalty; individual action for damages or penalty</b></p> <p>A. The results of every test to determine infection with human immunodeficiency virus shall be confidential. Such information may only be released to the following persons:</p> <ol style="list-style-type: none"> <li>1. The subject of the test or his legally authorized representative.</li> <li>2. Any person designated in a release signed by the subject of the test or his legally authorized representative.</li> <li>3. The Department of Health.</li> <li>4. Health care providers for purposes of consultation or providing care and treatment to the person who was the subject of the test or providing care and treatment to a child of a woman who, at the time of such child's birth, was known to be infected with human immunodeficiency virus.</li> <li>5. Health care facility staff committees which monitor, evaluate, or review programs or services.</li> <li>6. Medical or epidemiological researchers for use as statistical data only.</li> <li>7. Any person allowed access to such information by a court order.</li> <li>8. Any facility which procures, processes, distributes or uses blood, other body fluids, tissues or organs.</li> <li>9. Any person authorized by law to receive such information.</li> <li>10. The parents or other legal custodian of the subject of the test if the subject is a minor.</li> <li>11. The spouse of the subject of the test.</li> <li>12. Departments of health located outside the Commonwealth by the Virginia Department of Health for the purposes of disease surveillance and investigation.</li> </ol> <p>B. In any action brought under this section, if the court finds that a person has willfully or through gross negligence made an unauthorized disclosure in violation of this section, the Attorney General, any attorney for the Commonwealth, or any attorney for the county, city or town in which the violation occurred may recover for the Literary Fund, upon</p>

VA Title 32.1 Code §	Code Language
	<p>petition to the court, a civil penalty of not more than \$ 5,000 per violation.</p> <p>C. Any person who is the subject of an unauthorized disclosure pursuant to this section shall be entitled to initiate an action to recover actual damages, if any, or \$ 100, whichever is greater. In addition, such person may also be awarded reasonable attorney's fees and court costs.</p> <p>D. This section shall not be deemed to create any duty on the part of any person who receives such test results, where none exists otherwise, to release the results to a person listed herein as authorized to receive them.</p>
§ 32.1-37.2	<p><b>Consent for testing for human immunodeficiency virus; condition on disclosure of test results; counseling required; exceptions</b></p> <p>A. Prior to performing any test to determine infection with human immunodeficiency virus, a medical care provider shall inform the patient that the test is planned, provide information about the test, and advise the patient that he has the right to decline the test. If a patient declines the test, the medical care provider shall note that fact in the patient's medical file.</p> <p>B. Every person who has a confirmed positive test result for human immunodeficiency virus shall be afforded the opportunity for individual face-to-face disclosure of the test results and appropriate counseling. Appropriate counseling shall include, but not be limited to, the meaning of the test results, the need for additional testing, the etiology, prevention and effects of acquired immunodeficiency syndrome, the availability of appropriate health care, mental health care and social services, the need to notify any person who may have been exposed to the virus and the availability of assistance through the Department of Health in notifying such individuals.</p> <p>C. Opportunity for face-to-face disclosure of the test results and appropriate counseling shall not be required when the tests are conducted by blood collection agencies. However, all blood collection agencies shall notify the Board of Health of any positive tests.</p> <p>D. In the case of a person applying for accident and sickness or life insurance who is the subject of a test to determine infection for human immunodeficiency virus, insurers' practices including an explanation of the meaning of the test, the manner of obtaining consent, the method of disclosure of the test results and any counseling requirements shall be as set forth in the regulations of the State Corporation Commission.</p>
§ 32.1-45.1	<p><b>Deemed consent to testing and release of test results related to infection with human immunodeficiency virus or hepatitis B or C viruses</b></p>

VA Title 32.1 Code §	Code Language
	<p>A. Whenever any health care provider, or any person employed by or under the direction and control of a health care provider, is directly exposed to body fluids of a patient in a manner that may, according to the then current guidelines of the Centers for Disease Control and Prevention, transmit human immunodeficiency virus or hepatitis B or C viruses, the patient whose body fluids were involved in the exposure shall be deemed to have consented to testing for infection with human immunodeficiency virus or hepatitis B or C viruses. Such patient shall also be deemed to have consented to the release of such test results to the person who was exposed. In other than emergency situations, it shall be the responsibility of the health care provider to inform patients of this provision prior to providing them with health care services which create a risk of such exposure.</p> <p>B. Whenever any patient is directly exposed to body fluids of a health care provider, or of any person employed by or under the direction and control of a health care provider, in a manner that may, according to the then current guidelines of the Centers for Disease Control and Prevention, transmit human immunodeficiency virus or hepatitis B or C viruses, the person whose body fluids were involved in the exposure shall be deemed to have consented to testing for infection with human immunodeficiency virus or hepatitis B or C viruses. Such person shall also be deemed to have consented to the release of such test results to the patient who was exposed.</p> <p>C. For the purposes of this section, "<i>health care provider</i>" means any person, facility or agency licensed or certified to provide care or treatment by the Department of Health, Department of Mental Health, Mental Retardation and Substance Abuse Services, Department of Rehabilitative Services, or the Department of Social Services, any person licensed or certified by a health regulatory board within the Department of Health Professions except for the Boards of Funeral Directors and Embalmers and Veterinary Medicine or any personal care agency contracting with the Department of Medical Assistance Services.</p> <p>D. "Health care provider," as defined in subsection C of this section, shall be deemed to include any person who renders emergency care or assistance, without compensation and in good faith, at the scene of an accident, fire, or any life-threatening emergency, or while en route therefrom to any hospital, medical clinic or doctor's office during the period while rendering such emergency care or assistance. The Department of Health shall provide appropriate counseling and opportunity for face-to-face disclosure of any test results to any such person.</p> <p>E. Whenever any law-enforcement officer, salaried or volunteer firefighter, paramedic or emergency medical technician is directly exposed to body fluids of a person in a manner that may, according to the then current guidelines of the Centers for Disease Control and Prevention, transmit human immunodeficiency virus or hepatitis B or C</p>

VA Title 32.1 Code §	Code Language
	<p>viruses, the person whose body fluids were involved in the exposure shall be deemed to have consented to testing for infection with human immunodeficiency virus or hepatitis B or C viruses. Such person shall also be deemed to have consented to the release of such test results to the person who was exposed.</p> <p>F. Whenever a person is directly exposed to the body fluids of a law-enforcement officer, salaried or volunteer firefighter, paramedic or emergency medical technician in a manner which may, according to the then current guidelines of the Centers for Disease Control and prevention, transmit human immunodeficiency virus or hepatitis B or C viruses, the person whose body fluids were involved in the exposure shall be deemed to have consented to testing for infection with human immunodeficiency virus or hepatitis B or C viruses. The law-enforcement, salaried or volunteer firefighter, paramedic or emergency medical technician officer shall also be deemed to have consented to the release of such test results to the person who was exposed.</p> <p>G. For the purposes of this section, "<i>law-enforcement officer</i>" means a person who is both (i) engaged in his public duty at the time of such exposure and (ii) employed by any sheriff's office, any adult or youth correctional facility, or any state or local law-enforcement agency, or any agency or department under the direction and control of the Commonwealth or any local governing body that employs persons who have law-enforcement authority.</p> <p>H. Whenever any school board employee is directly exposed to body fluids of any person in a manner that may, according to the then current guidelines of the Centers for Disease Control and Prevention, transmit human immunodeficiency virus or hepatitis B or C viruses, the person whose body fluids were involved in the exposure shall be deemed to have consented to testing for infection with human immunodeficiency virus or hepatitis B or C viruses. Such person shall also be deemed to have consented to the release of such test results to the school board employee who was exposed. In other than emergency situations, it shall be the responsibility of the school board employee to inform the person of this provision prior to the contact that creates a risk of such exposure.</p> <p>I. Whenever any person is directly exposed to the body fluids of a school board employee in a manner that may, according to the then current guidelines of the Centers for Disease Control and Prevention, transmit human immunodeficiency virus or hepatitis B or C viruses, the school board employee whose body fluids were involved in the exposure shall be deemed to have consented to testing for infection with human immunodeficiency virus or hepatitis B or C viruses. The school board employee shall also be deemed to have consented to the release of such test results to the person.</p> <p>J. For the purposes of this section, "<i>school board employee</i>" means a person who is both (i) acting in the course of employment at the time of</p>

VA Title 32.1 Code §	Code Language
	<p>such exposure and (ii) employed by any local school board in the Commonwealth.</p> <p>K. For purposes of this subsection, if the person whose blood specimen is sought for testing is a minor, and that minor refuses to provides such specimen, consent for obtaining such specimen shall be obtained from the parent, guardian, or person standing in loco parentis of such minor prior to initiating such testing. If the parent or guardian or person standing in loco parentis withholds such consent, or is not reasonably available the person potentially exposed to the human immunodeficiency virus or hepatitis B or C viruses, or the employer of such person, may petition the juvenile and domestic relations district court in the county or city where the minor resides or resided or, in the case of a nonresident, the county or city where the health car provider, law-enforcement agency or school board has its principal office or, in the case of a health care provider rendering emergency care pursuant to subsection D, the county or city where the exposure occurred, for an order requiring the minor to provide a blood specimen or to submit to testing and to disclose the test results in accordance with this section.</p> <p>L. Except as provided in subsection K, if the person whose blood specimen is sought for testing refuses to provide such specimen, any person potentially exposed to the human immunodeficiency virus or hepatitis B or C viruses, or the employer of such person, may petition the general district court of the county or city in which the person whose specimen is sought resides or resided, or, in the case of a nonresident, the county or city where the health care provider, law-enforcement agency or school board has its principal office or, in the case of a health care provider rendering emergency care pursuant to subsection D, the county or city where the exposure occurred,, for an order requiring the person to provide a blood specimen or to submit to testing and to disclose the test results in accordance with this section. At any hearing before the court, the person whose specimen is sought or his counsel may appear. The court shall be advised by the Commissioner or his designee prior to entering any testing order. If a testing order is issued, both the petitioner and the person from whom the blood specimen is sought shall receive counseling and opportunity for face-to-face disclosure of any test results by a licensed practitioner or trained counselor.</p>
§ 32.1-45.2	<p><b>Public safety employees; testing for blood-borne pathogens; procedure available for certain citizens; definitions</b></p> <p>A. If, in the course of employment, an employee of a public safety agency is involved in a possible exposure prone incident, the employee shall immediately, or as soon thereafter as practicable, notify the agency of the incident in accordance with the agency's procedures for reporting workplace accidents.</p> <p>B. If, after reviewing the facts of the possible exposure prone incident</p>

VA Title 32.1 Code §	Code Language
	<p>with the employee and after medical consultation, the agency concludes that it is reasonable to believe that an exposure prone incident may have occurred, (i) the agency shall request the person whose body fluids were involved to submit to testing for hepatitis B or C virus and human immunodeficiency virus and to authorize disclosure of the test results or (ii) if the person is deceased, the agency shall request the custodian of the remains to preserve a specimen of blood and shall request the decedent's next of kin to consent, as provided in § 32.1-37.2, to such testing and to authorize disclosure of the test results.</p> <p>C. If a person is involved in a possible exposure prone incident involving the body fluids of an employee of a public safety agency, the person may request the agency to review the facts of the possible exposure prone incident for purposes of obtaining the employee's consent to test for hepatitis B or C virus and human immunodeficiency virus and to authorize disclosure of the test results. If, after reviewing the facts and after medical consultation, the agency concludes it is reasonable to believe an exposure prone incident involving the person and the employee may have occurred, (i) the agency shall request the employee whose body fluids were involved to give consent to submit to testing for hepatitis B or C virus and human immunodeficiency virus and to authorize disclosure of the test results or (ii) if the employee is deceased, the agency shall request the custodian of the remains to preserve a specimen of blood and shall request the decedent's next of kin to provide consent, as provided in § 32.1-37.2, to such testing and to authorize disclosure of the test results.</p> <p>D. If consent is refused under subsection B of this section, the public safety agency or the employee may petition the general district court of the city or county in which the person resides or resided, or in the case of a nonresident, the city or county of the public safety agency's principal office, to determine whether an exposure prone incident has occurred and to order testing and disclosure of the test results.</p> <p>If informed consent is refused under subsection C of this section, the person involved in the possible exposure prone incident may petition the general district court of the city or county of the public safety agency's principal office to determine whether an exposure prone incident has occurred and to order testing and disclosure of the test results.</p> <p>E. If the court finds by a preponderance of the evidence that an exposure prone incident has occurred, it shall order testing for hepatitis B or C virus and human immunodeficiency virus and disclosure of the test results. The court shall be advised by the Commissioner or his designee in making this finding. The hearing shall be held in camera as soon as practicable after the petition is filed. The record shall be sealed.</p> <p>F. A party may appeal an order of the general district court to the circuit court of the same jurisdiction within ten days from the date of the order. Any such appeal shall be de novo, in camera, and shall be heard as soon</p>

VA Title 32.1 Code §	Code Language
	<p>as possible by the circuit court. The circuit court shall be advised by the Commissioner or his designee. The record shall be sealed. The order of the circuit court shall be final and nonappealable.</p> <p>G. Disclosure of any test results provided by this section shall be made to the district health director of the jurisdiction in which the petition was brought or the district in which the person or employee was tested. The district health director or his designee shall inform the parties of the test results and counsel them in accordance with subsection B of § 32.1-37.2.</p> <p>H. The results of the tests shall be confidential as provided in § 32.1-36.1.</p> <p>I. No person known or suspected to be positive for infection with hepatitis B or C virus or human immunodeficiency virus shall be refused services for that reason by any public safety agency personnel.</p> <p>J. For the purpose of this section and for no other purpose, the term "<i>employee</i>" shall include: (i) any person providing assistance to a person employed by a public safety agency who is directly affected by a possible exposure prone incident as a result of the specific crime or specific circumstances involved in the assistance and (ii) any victim of or witness to a crime who is directly affected by a possible exposure prone incident as a result of the specific crime.</p> <p>K. This section shall not be deemed to create any duty on the part of any person where none exists otherwise, and a cause of action shall not arise from any failure to request consent or to consent to testing under this section. The remedies available under this section shall be exclusive.</p> <p>L. For the purposes of this section, the following terms shall apply:</p> <p><i>"Exposure prone incident"</i> means a direct exposure to body fluids of another person in a manner which may, according to the then current guidelines of the Centers for Disease Control, transmit hepatitis B or C virus or human immunodeficiency virus and which occurred during the commission of a criminal act, during the performance of emergency procedures, care or assistance, or in the course of public safety or law-enforcement duties.</p> <p><i>"Public safety agency"</i> means any sheriff's office and any adult or youth correctional, law-enforcement, fire safety organization or any agency or department that employs persons who have law-enforcement authority and which is under the direction and control of the Commonwealth or any local governing body.</p>
§ 32.1-45.3	<p><b>Certain testing of gamete donors required; Board to establish testing protocol</b></p> <p>Any person using donor gametes to treat patients for infertility by</p>

VA Title 32.1 Code §	Code Language
	<p>artificial insemination, in vitro fertilization, gamete intrafallopian tube transfer, or zygote intrafallopian tube transfer or any other gamete, zygote or embryo transfer or other intervening medical technology using sperm or ova, shall, prior to using any donor gametes for such procedures, ascertain the HIV status of the donor through testing as provided in Board of Health regulations. The Board of Health shall promulgate regulations establishing a testing protocol for gamete donors.</p> <p>As used in this section:</p> <p><i>"Donor"</i> means an individual unrelated by marriage to the recipient who contributes the sperm or ova used in the procedures noted above.</p> <p><i>"Gametes"</i> means either sperm or ova.</p>
§ 32.1-55.1	<p><b>Anonymous testing sites for human immunodeficiency virus</b></p> <p>From such funds as are appropriated for this purpose, the Board of Health shall make available in all health services areas of the Commonwealth anonymous testing for infection with human immunodeficiency virus.</p>
§32.1-69	<p><b>Records confidential; disclosure of results of screening.</b></p> <p>The results of any particular screening program shall be sent to the physician of the person tested, if known, and either to the parents when the person screened is under the age of eighteen or to the person if he is eighteen years of age or over. The results of a screening program may be used for research and collective statistical purposes. Except as hereinabove provided, all records maintained as part of any screening program shall be strictly confidential and shall be accessible only to the Board, the Commissioner or his agents or to the local health director who is conducting the screening program except by explicit permission of the person who has been screened if such person is eighteen years of age or over or of such person's parent or guardian if he is under age eighteen.</p>
§ 32.1-116.3	<p><b>Reporting of communicable diseases; definition</b></p> <p>A. For the purposes of this section:</p> <p><i>"Communicable diseases"</i> means any airborne infection or disease, including, but not limited to, tuberculosis, measles, certain meningococcal infections, mumps, chicken pox and Hemophilus Influenzae Type b, and those transmitted by contact with blood or other human body fluids, including, but not limited to, human immunodeficiency virus, Hepatitis B and Non-A, Non-B Hepatitis.</p> <p><i>"Communicable disease of public health threat"</i> means an illness of public health significance, as determined by the State Health Commissioner in accordance with regulations of the Board of Health, caused by a specific</p>

VA Title 32.1 Code §	Code Language
	<p>or suspected infectious agent that may be reasonably expected or is known to be readily transmitted directly or indirectly from one individual or person to another or to uninfected persons through airborne or nonairborne means and has been found to create a risk of death or significant injury or impairment; this definition shall not, however, be construed to include human immunodeficiency viruses or tuberculosis, unless used as a bioterrorism weapon. <i>"Individual"</i> shall include any companion animal.</p> <p>B. Every licensed health care facility which transfers or receives patients via emergency medical services ambulances or mobile intensive care units shall notify the emergency medical services agencies providing such patient transport of the name and telephone number of the individual who is the infection control practitioner with the responsibility of investigating exposure to infectious diseases in the facility.</p> <p>Every licensed emergency medical services agency established in the Commonwealth shall notify all facilities to which they transport patients or from which they transfer patients of the names and telephone numbers of the members, not to exceed three persons, who have been appointed to serve as the communicable disease liaison officers. Every licensed emergency medical services agency shall implement universal precautions and shall ensure that these precautions are appropriately followed and enforced.</p> <p>C. Upon requesting any licensed emergency medical services agency to transfer (i) a patient who is known to be positive for or who suffers from any communicable disease, the transferring facility shall inform the attendant-in-charge of the transferring crew of the general condition of the patient and the types of precautions to be taken to prevent the spread of the disease. The identity of the patient shall be confidential.</p> <p>D. If any firefighter, law-enforcement officer, emergency medical services technician or paramedic has an exposure of blood or body fluid to mucous membrane, non-intact skin, or a contaminated needlestick injury, his exposure control officer shall be notified, a report completed and the infection control practitioner at the receiving facility notified.</p> <p>E. If, during the course of medical care and treatment, any physician determines that a patient who was transported to a receiving facility by any licensed emergency medical services agency (i) is positive for or has been diagnosed as suffering from an airborne infectious disease or (ii) is subject to an order of quarantine or an order of isolation pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2 of this title, then the infection control practitioner in the facility shall immediately notify the exposure control officer who represents the transporting emergency medical services agency of the name of the patient, and the date and time of the patient's admittance to the facility. The exposure control officer for the transporting emergency medical services agency shall investigate the incident to determine if any exposure of emergency</p>

<b>VA Title 32.1 Code §</b>	<b>Code Language</b>
	<p>medical services personnel or other emergency personnel occurred. The identity of the patient and all personnel involved in any such investigation shall be confidential.</p> <p>F. If any firefighter, law-enforcement officer, emergency medical services technician or paramedic shall be exposed to a communicable disease, the exposure control officer shall immediately notify the infection control practitioner of the receiving facility. The infection control practitioner of the facility shall conduct an investigation and provide information concerning the extent and severity of the exposure and the recommended course of action to the exposure control officer of the transporting agency.</p> <p>G. Any person requesting or requiring any employee of a public safety agency as defined in subsection J of § 32.1-45.2 to arrest, transfer, or otherwise exercise custodial supervision over an individual known to the requesting person (i) to be infected with any communicable disease or (ii) to be subject to an order of quarantine or an order of isolation pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2 of this title shall inform such public safety agency employee of a potential risk of exposure to a communicable disease.</p> <p>H. Local or state correctional facilities which transfer patients known to have a communicable disease or to be subject to an order of quarantine or an order of isolation pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2 of this title shall notify the emergency medical services agency providing transportation services of a potential risk of exposure to a communicable disease, including a communicable disease of public health threat. For the purposes of this section, the chief medical person at a local or state correctional facility or the facility director or his designee shall be responsible for providing such information to the transporting agency.</p> <p>I. Any person who, as a result of this provision, becomes aware of the identity or condition of a person known to be (i) positive for or to suffer from any communicable disease, or to have suffered exposure to a communicable disease or (ii) subject to an order of quarantine or an order of isolation pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2 of this title, shall keep such information confidential, except as expressly authorized by this provision.</p> <p>J. No person known to be (i) positive for or to suffer from any communicable disease, including any communicable disease of public health threat, or (ii) subject to an order of quarantine or an order of isolation pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2 of this title, shall be refused transportation or service for that reason by an emergency medical services, law-enforcement, or public safety agency.</p>
§ 32.1-127.1:03	<b>Health records privacy</b>

<b>VA Title 32.1 Code §</b>	<b>Code Language</b>
	<p>A. There is hereby recognized an individual's right of privacy in the content of his health records. Health records are the property of the health care entity maintaining them, and, except when permitted or required by this section or by other provisions of state law, no health care entity, or other person working in a health care setting, may disclose an individual's health records.</p> <p>Pursuant to this subsection:</p> <ol style="list-style-type: none"> <li>1. Health care entities shall disclose health records to the individual who is the subject of the health record, except as provided in subsections E and F of this section and subsection B of § 8.01-413.</li> <li>2. Health records shall not be removed from the premises where they are maintained without the approval of the health care entity that maintains such health records, except in accordance with a court order or subpoena consistent with subsection C of § 8.01-413 or with this section or in accordance with the regulations relating to change of ownership of health records promulgated by a health regulatory board established in Title 54.1.</li> <li>3. No person to whom health records are disclosed shall redisclose or otherwise reveal the health records of an individual, beyond the purpose for which such disclosure was made, without first obtaining the individual's specific authorization to such redisclosure. This redisclosure prohibition shall not, however, prevent (i) any health care entity that receives health records from another health care entity from making subsequent disclosures as permitted under this section and the federal Department of Health and Human Services regulations relating to privacy of the electronic transmission of data and protected health information promulgated by the United States Department of Health and Human Services as required by the Health Insurance Portability and Accountability Act (HIPAA) (42 U.S.C. § 1320d et seq.) or (ii) any health care entity from furnishing health records and aggregate or other data, from which individually identifying prescription information has been removed, encoded or encrypted, to qualified researchers, including, but not limited to, pharmaceutical manufacturers and their agents or contractors, for purposes of clinical, pharmaco-epidemiological, pharmaco-economic, or other health services research.</li> </ol>

**Title 38.2: Insurance**

<b>VA Title 38.2 Code §</b>	<b>Code Language</b>
§ 38.2-613.01	<p><b>Commission to promulgate regulations on disclosure of certain medical test results to insurance applicants</b></p> <p>Pursuant to the authority granted by <a href="#">§§ 38.2-223</a> and <a href="#">38.2-3100.1</a>, the Commission shall promulgate such regulations as may be necessary or appropriate to ensure that applicants for life or accident and sickness insurance coverage or for modifications to existing coverage are notified of test results whenever insurers require such applicants to submit to testing for human immunodeficiency viruses (HIV).</p>

<b>Title 53.1: Prisons and Other Methods of Correction</b>
------------------------------------------------------------

VA Title 53.1 Code §	Code Language
§ 53.1-33.1	<p><b>Mandatory testing for human immunodeficiency virus.</b></p> <p>The Department shall offer to test each inmate, who does not have a record of a positive test result, for infection with human immunodeficiency virus within 60 days of the scheduled discharge of the inmate from a state correctional facility. Prior to administering a test for human immunodeficiency virus, the Department shall inform, or cause to be informed, the inmate to be tested of the purpose of the test. Any inmate may choose not to be tested.</p>
§ 53.1-40.10	<p><b>Exchange of medical and mental health information and records</b></p> <p>Medical and mental health information and records of any person committed to the Department of Corrections may be exchanged among the following:</p> <ol style="list-style-type: none"> <li>1. Administrative personnel for the facility in which the prisoner is imprisoned when there is reasonable cause to believe that such information is necessary to maintain the security and safety of the facility, its employees, or other prisoners. The information exchanged shall continue to be confidential and disclosure shall be limited to that necessary to ensure the safety and security of the facility.</li> <li>2. Members of the Parole Board, as specified in § 53.1-138, in order to conduct the investigation required under § 53.1-155.</li> <li>3. Probation and parole officers for use in parole and probation planning, release and supervision.</li> <li>4. Officials within the Department for the purpose of formulating recommendations for treatment and rehabilitative programs; classification, security and work assignments; and determining the necessity for medical, dental and mental health care, treatment and programs.</li> <li>5. Medical and mental health hospitals and facilities, both public and private, including community service boards, for use in planning for and supervision of post-incarceration medical and mental health care, treatment, and programs.</li> </ol> <p>Substance abuse records subject to federal regulations, Confidentiality of Alcohol and Drug Abuse Patient Records, 42 C.F.R. § 2.11 et seq., shall not be subject to the provisions of this section. The disclosure of results of a test for human immunodeficiency virus shall not be permitted except as provided in § 32.1-36.1.</p> <p>The release of medical and mental health information and records to any other agency or individual shall be subject to all regulations promulgated by the Department which govern confidentiality of such records. Medical and mental health information concerning a prisoner which has been exchanged pursuant to this section may be used only as provided herein and shall otherwise remain confidential and protected from disclosure.</p>

<b>Title 54.1: Professions and Occupations</b>
------------------------------------------------

VA Title 54.1 Code §	Code Language
§ 54.1-2403.01	<p><b>Routine component of prenatal care</b></p> <p>As a routine component of prenatal care, every practitioner licensed pursuant to this subtitle who renders prenatal care, including any holder of a multistate licensure privilege to practice nursing, regardless of the site of such practice, shall inform every pregnant woman who is his patient that human immunodeficiency virus (HIV) screening is recommended for all pregnant patients and that she will receive an HIV test as part of the routine panel of prenatal tests unless she declines (opt-out screening). The practitioner shall offer the pregnant woman oral or written information that includes an explanation of HIV infection, a description of interventions that can reduce HIV transmission from mother to infant, and the meaning of positive and negative test results. The confidentiality provisions of <a href="#">§ 32.1-36.1</a>, test result disclosure conditions, and appropriate counseling requirements of <a href="#">§ 32.1-37.2</a> shall apply to any HIV testing conducted pursuant to this section. Practitioners shall counsel all pregnant women with HIV-positive test results about the dangers to the fetus and the advisability of receiving treatment in accordance with the then current Centers for Disease Control and Prevention recommendations for HIV-positive pregnant women. Any pregnant woman shall have the right to refuse testing for HIV infection and any recommended treatment. Documentation of such refusal shall be maintained in the patient's medical record.</p>
§54.1-2969	<p><b>Authority to consent to surgical and medical treatment of certain minors.</b></p> <p>E. A minor shall be deemed an adult for the purpose of consenting to:</p> <ol style="list-style-type: none"> <li>1. Medical or health services needed to determine the presence of or to treat venereal disease or any infectious or contagious disease that the State Board of Health requires to be reported;</li> <li>2. Medical or health services required in case of birth control, pregnancy or family planning except for the purposes of sexual sterilization;</li> <li>3. Medical or health services needed in the case of outpatient care, treatment or rehabilitation for substance abuse as defined in <a href="#">§ 37.2-100</a>;</li> </ol> <p>or</p> <ol style="list-style-type: none"> <li>4. Medical or health services needed in the case of outpatient care, treatment or rehabilitation for mental illness or emotional disturbance.</li> </ol> <p>A minor shall also be deemed an adult for the purpose of accessing or authorizing the disclosure of medical records related to subdivisions 1 through 4.</p>

<b>Virginia Administrative Code – Title 12: Health</b>	
--------------------------------------------------------	--

Title 12 VAC	Code Language
12VAC5-90-90	<p><b>Those required to report.</b></p> <p>A. Physicians. Each physician who treats or examines any person who is suffering from or who is suspected of having a reportable disease or condition shall report that person's name, address, age, date of birth, sex, race, name of disease diagnosed or suspected, and the date of onset of illness, except that influenza should be reported by number of cases only (and type of influenza, if available). The pregnancy status of females who test positive for HBsAg should be reported, if available. Reports are to be made to the local health department serving the jurisdiction where the physician practices. A physician may designate someone to report on his behalf, but the physician remains responsible for ensuring that the appropriate report is made. Any physician, designee, or organization making such report as authorized herein shall be immune from liability as provided by §32.1-38 of the Code of Virginia.</p> <p>Such reports shall be made on a form to be provided by the department (Epi-1), a computer generated printout containing the data items requested on Form Epi-1, or a Centers for Disease Control and Prevention (CDC) surveillance form that provides the same information and shall be made within three days of the suspicion or confirmation of disease unless the disease in question requires rapid reporting under 12VAC5-90-80. Reporting may be done by means of secure electronic transmission upon agreement of the physician and the department.</p> <p>Pursuant to §32.1-49.1 of the Code of Virginia, additional elements are required to be reported for individuals with confirmed or suspected active tuberculosis disease. Refer to Part X for details on these requirements.</p> <p>B. Directors of laboratories. Any person who is in charge of a laboratory conducting business in the Commonwealth shall report any laboratory examination of any specimen derived from the human body, whether performed in-house or referred to an out-of-state laboratory, which yields evidence, by the laboratory method(s) indicated or any other confirmatory test, of a disease listed in 12VAC5-90-80 B:</p> <p>Each report shall give the source of the specimen and the laboratory method and result; the name, age, date of birth, race, sex, and address of the person from whom the specimen was obtained; and the name and address of the physician or medical facility for whom the examination was made. When the influenza virus is isolated, the type should be reported, if available. The pregnancy status of females who test positive for HBsAg should be reported, if available. Reports shall be made within three days of identification of evidence of disease, except that those identified by an asterisk shall be reported within 24 hours by the most rapid means available, to the local health department serving the jurisdiction in which the laboratory is located. Reports shall be made on Form Epi-1 or on the laboratory's own form if it includes the required information. Computer generated reports containing the required information may be submitted. Reporting may be done by means of secure electronic transmission upon agreement of the laboratory director</p>

<b>Title 12 VAC</b>	<b>Code Language</b>
	<p>and the department. Any person making such report as authorized herein shall be immune from liability as provided by §32.1-38 of the Code of Virginia.</p> <p>A laboratory shall fulfill its responsibility to report anthrax, cholera, diphtheria, E. coli O157:H7, H. influenzae infection, Listeria, meningococcal infection, Mycobacterium tuberculosis (see 12VAC5-90-225), pertussis, plague, poliomyelitis, Salmonella infection, Shigella infection, invasive Group A streptococcal infection, and other diseases as may be requested by the health department by both notifying the health department of the positive culture and submitting the initial culture to the Virginia Division of Consolidated Laboratory Services (DCLS). Stool specimens that test positive for Shiga toxin shall be submitted to DCLS for organism identification. All specimens must be identified with the patient and physician information required in this subsection. At times, other laboratories may also be requested to submit specimens to the Virginia Division of Consolidated Laboratory Services.</p> <p>Laboratories operating within a medical care facility shall be considered to be in compliance with the requirement to notify the health department when the director of that medical care facility assumes the reporting responsibility.</p> <p>C. Person in charge of a medical care facility. Any person in charge of a medical care facility shall make a report to the local health department serving the jurisdiction where the facility is located of the occurrence in or admission to the facility of a patient with a reportable disease listed in 12VAC5-90-80 A unless he has evidence that the occurrence has been reported by a physician. Any person making such report as authorized herein shall be immune from liability as provided by §32.1-38 of the Code of Virginia. The requirement to report shall include all inpatient, outpatient and emergency care departments within the medical care facility. Such report shall contain the patient's name, age, date of birth, address, sex, race, name of disease being reported, the date of admission, hospital chart number, date expired (when applicable), and attending physician. Influenza should be reported by number of cases only (and type of influenza, if available). The pregnancy status of females who test positive for HBsAg should be reported, if available. Reports shall be made within three days of the suspicion or confirmation of disease unless the disease in question requires rapid reporting under 12VAC5-90-80 and shall be made on Form Epi-1, a computer generated printout containing the data items requested on Form Epi-1, or a Centers for Disease Control and Prevention (CDC) surveillance form that provides the same information. Reporting may be done by means of secure electronic transmission upon agreement of the medical care facility and the department.</p> <p>A person in charge of a medical care facility may assume the reporting responsibility on behalf of the director of the laboratory operating within the facility.</p> <p>D. Person in charge of a school, child care center, or summer camp. Any person in charge of a school, child care center, or summer camp shall</p>

<b>Title 12 VAC</b>	<b>Code Language</b>
	<p>report immediately to the local health department the presence or suspected presence in his school or child care center of children who have common symptoms suggesting an epidemic or outbreak situation. Any person so reporting shall be immune from liability as provided by §32.1-38 of the Code of Virginia.</p> <p>E. Local health director. The local health director shall forward within three days of receipt to the Office of Epidemiology of the State Health Department any report of a disease or report of evidence of a disease which has been made on a resident of his jurisdiction. This report shall be by telecommunication if the disease is one requiring rapid communication, as required in 12VAC5-90-80. All such rapid reporting shall be confirmed in writing and submitted to the Office of Epidemiology within seven days. Furthermore, the local health director shall immediately forward to the appropriate local health director any disease reports on individuals residing in the latter's jurisdiction or to the Office of Epidemiology on individuals residing outside Virginia.</p> <p>When notified about a disease specified in 12VAC5-90-80, the local health department shall perform contact tracing for HIV infection, infectious syphilis, and active tuberculosis disease and may perform contact tracing for the other diseases if deemed necessary to protect the public health. The local health director shall have the responsibility to accomplish contact tracing by either having patients inform their potential contacts directly or through obtaining pertinent information such as names, descriptions, and addresses to enable the health department staff to inform the contacts. All contacts of HIV infection shall be afforded the opportunity for appropriate counseling, testing, and individual face-to-face disclosure of their test results. In no case shall names of informants or infected persons be revealed to contacts by the health department. All information obtained shall be kept strictly confidential.</p> <p>The local health director or his designee shall review reports of diseases received from his jurisdiction and follow up such reports, when indicated, with an appropriate investigation in order to evaluate the severity of the problem. He shall determine, in consultation with the Director of the Office of Epidemiology and the commissioner, if further investigation is required and if complete or modified quarantine will be necessary.</p> <p>Modified quarantine shall apply to situations in which the local health director on the scene would be best able to judge the potential threat of disease transmission. Such situations shall include, but are not limited to, the temporary exclusion of a child with a communicable disease from school and the temporary prohibition or restriction of any individual(s), exposed to or suffering from a communicable disease, from engaging in an occupation such as foodhandling that may pose a threat to the public. Modified quarantine shall also include the exclusion, under §32.1-47 of the Code of Virginia, of any unimmunized child from a school in which an outbreak, potential epidemic, or epidemic of a vaccine preventable disease has been identified. In these situations, the local health director may be authorized as the commissioner's designee to order the least</p>

<b>Title 12 VAC</b>	<b>Code Language</b>
	<p>restrictive means of modified quarantine.</p> <p>Where modified quarantine is deemed to be insufficient and complete quarantine or isolation is necessary to protect the public health, the local health director, in consultation with the Director of the Office of Epidemiology, shall recommend to the commissioner that a quarantine order or isolation order be issued.</p> <p>F. Person in charge of hospitals, nursing facilities or nursing homes, assisted living facilities, and correctional facilities. In accordance with §32.1-37.1 of the Code of Virginia, any person in charge of a hospital, nursing facility or nursing home, adult care residence or correctional facility shall, at the time of transferring custody of any dead body to any person practicing funeral services, notify the person practicing funeral services or his agent if the dead person was known to have had, immediately prior to death, an infectious disease which may be transmitted through exposure to any bodily fluids. These include any of the following infectious diseases:</p> <p style="padding-left: 40px;">Human immunodeficiency virus infection</p>
12VAC5-90-130	<p><b>Prenatal testing.</b></p> <p>Every physician attending a pregnant patient during gestation shall examine and test such patient for syphilis and hepatitis B surface antigen (HBsAg) within 15 days after beginning such attendance. A second prenatal test for syphilis and HBsAg shall be conducted at the beginning of the third trimester (28 weeks) for patients who are at higher risk for these diseases. Persons at higher risk for syphilis include those who have had multiple sexual partners within the previous year and those with any prior history of a sexually transmitted disease. Persons at higher risk for hepatitis B virus infection include injecting drug users and those with personal contact with a hepatitis B patient, multiple sexual partners, and/or occupational exposure to blood. If the patient first seeks care during the third trimester, only one test shall be required. As a routine component of prenatal care, every licensed practitioner who renders prenatal care, including any holder of a multistate licensure privilege to practice nursing, regardless of the site of such practice, shall advise every pregnant patient of the value of testing for human immunodeficiency virus (HIV) infection and shall request of each pregnant patient consent to such testing. The confidentiality provisions of <a href="#">§32.1-36.1</a> of the Code of Virginia, the informed consent stipulations, test result disclosure conditions, and appropriate counseling requirements of <a href="#">§32.1-37.2</a> of the Code of Virginia shall apply to any HIV testing conducted pursuant to this section. Practitioners shall counsel all pregnant patients with HIV-positive test results about the dangers to the fetus and the advisability of receiving treatment in accordance with the then current Centers for Disease Control and Prevention recommendations for HIV-positive pregnant patients. Any pregnant patient shall have the right to refuse consent to testing for HIV infection and any recommended treatment. Documentation of such refusal shall be maintained in the patient's medical record. Every physician should also</p>

<b>Title 12 VAC</b>	<b>Code Language</b>
	examine and test a pregnant patient for any sexually transmitted disease as clinically indicated.
12VAC5-90-225	<p><b>Additional data to be reported related to persons with active tuberculosis disease (confirmed or suspected).</b></p> <p>A. Physicians and directors of medical care facilities are required to submit all of the following:</p> <ol style="list-style-type: none"> <li>1. An initial report to be completed when there are reasonable grounds to suspect that a person has active TB disease, but no later than when antituberculosis drug therapy is initiated. The reports must include the following: the affected person's name; age; date of birth; gender; address; pertinent clinical, radiographic, microbiologic and pathologic reports, whether pending or final; such other information as may be needed to locate the patient for follow-up; and name, address, and telephone number of the treating physician.</li> <li>2. A secondary report to be completed simultaneously or within one to two weeks following the initial report. The report must include: the date and results of tuberculin skin test (TST); the date and results of the initial and any follow-up chest radiographs; the dates and results of bacteriologic or pathologic testing, the antituberculosis drug regimen, including names of the drugs, dosages and frequencies of administration, and start date; the date and results of drug susceptibility testing; HIV status; contact screening information; and name, address, and telephone number of treating physician.</li> <li>3. Subsequent reports are to be made when updated information is available. Subsequent reports are required when: clinical status changes, the treatment regimen changes; treatment ceases for any reason; or there are any updates to laboratory results, treatment adherence, name, address, and telephone number of current provider, patient location or contact information, or other additional clinical information.</li> </ol>
12VAC5-90-250	<p><b>Storage of semen pending negative HIV tests</b></p> <p>Semen specimens from donors shall be stored and withheld from use for at least 180 days following donation and used only if the donor tests negative for serum antibodies for HIV-1 and HIV-2 on enzyme-linked immunoadsorbent assay or blood HIV-1 and HIV-2 by polymerase chain reaction at least 180 days after donation.</p>
12VAC5-90-260	<p><b>Use of ova after negative HIV tests</b></p> <p>Ova shall be used only if the donor tests negative for serum antibodies to HIV-1 and HIV-2 on enzyme-linked immunoadsorbent assay or blood HIV-1 and HIV-2 by polymerase chain reaction at the initiation of the cycle during which the ova are harvested.</p>

Title 12 VAC	Code Language
12VAC30-50-510	<p><b>Requirements and limits applicable to specific services: expanded prenatal care services.</b></p> <p>B. Definition of services: Expanded prenatal care services will offer a more comprehensive prenatal care services package to improve pregnancy outcome. The expanded prenatal care services provider may perform the following services:</p> <p>5. Residential substance abuse treatment services for pregnant and postpartum women. Includes comprehensive, intensive residential treatment for pregnant and postpartum women to improve pregnancy outcomes by eliminating the substance abuse problem. Must be provided consistent with standards established to assure high quality of care in 12VAC30-60. Residential substance abuse treatment services for pregnant and postpartum women shall provide intensive intervention services in residential facilities other than inpatient facilities and shall be provided to pregnant and postpartum women (up to 60 days postpartum) with serious substance abuse disorders, for the purposes of improving the pregnancy outcome, treating the substance abuse disorder, strengthening the maternal relationship with existing children and the infant, and achieving and maintaining a sober and drug-free lifestyle. The woman may keep her infant and other dependent children with her at the treatment center. The daily rate is inclusive of all services which are provided to the pregnant woman in the program. A unit of service shall be one day. The maximum number of units to be covered per pregnancy is 300 days, not to exceed 60 days postpartum. These services must be reauthorized every 90 days and after any absence of less than 72 hours which was not first authorized by the program director. The program director must document the reason for granting permission for any absences in the clinical record of the recipient. An unauthorized absence of more than 72 hours shall terminate Medicaid reimbursement for this service. Unauthorized hours absent from treatment shall be included in this lifetime service limit.</p> <p>This type of treatment shall provide the following types of services or activities in order to be eligible to receive reimbursement by Medicaid:</p> <p>e. Personal health care training and assistance shall be provided. Such training shall include:</p> <p>(1) Educational services and referral services for testing, counseling, and management of HIV, provided as described in 42 USC §300x-24(b)(6)(A) and (B), including early intervention services as defined in 42 USC §300x-24(b)(7) and in coordination with the programs identified in 45 CFR 96.128;</p>
12VAC35-115-70	<p><b>Participation in decision making.</b></p> <p>B. The provider's duties.</p> <p>1. Providers shall respect, protect, and help develop each individual's</p>

<b>Title 12 VAC</b>	<b>Code Language</b>
	<p>ability to participate meaningfully in decisions regarding all aspects of services affecting him. This shall be done by involving the individual, to the extent permitted by his capacity, in decision-making regarding all aspects of services.</p> <p>2. Providers shall ask the individual to express his preferences about decisions regarding all aspects of services that affect him and shall honor these preferences to the extent possible.</p> <p>3. Providers shall give each individual the opportunity, and any help he needs, to participate meaningfully in the preparation of his services plan, discharge plan, and changes to these plans, and all other aspects of services he receives. Providers shall document these opportunities in the individual's services record.</p> <p>4. Providers shall obtain and document in the individual's services record the individual's consent prior to disclosing any information about him. See 12VAC35-115-80 for the rights, duties, exceptions, and conditions relating to disclosure.</p> <p>5. Providers shall obtain and document in the individual's services record the individual's consent for any treatment, including medical treatment, before the treatment begins. If the individual is a minor in the legal custody of a natural or adoptive parent, the provider shall obtain this consent from at least one parent. The consent of a parent is not needed if a court has ordered or consented to treatment or services pursuant to §16.1-241 D, 16.1-275, or 54.1-2969 B of the Code of Virginia, or a local department of social services with custody of the minor has provided consent. Reasonable efforts must be made, however, to notify the parent or legal custodian promptly following the treatment or services. Additionally, a competent minor may independently consent to treatment of sexually transmitted diseases, family planning, or outpatient services or treatment for mental illness, emotional disturbance, or addictions pursuant to §54.1-2969 E of the Code of Virginia.</p>

<b>Virginia Administrative Code – Title 14: Insurance</b>	
-----------------------------------------------------------	--

<b>Title 14 VAC</b>	<b>Code Language</b>
14VAC5-180-50	<p><b>Underwriting procedures</b></p> <p>A. Insurers may underwrite for acquired immunodeficiency syndrome (AIDS) or HIV infection provided the underwriting procedures, including the questions used on the application for life or accident and sickness insurance coverage, are consistent and not unfairly discriminatory.</p> <ol style="list-style-type: none"> <li>1. Questions relating to the applicant having or having been diagnosed as having AIDS or HIV infection are permissible if they are factual and designed to establish the existence of the condition.</li> <li>2. An adverse underwriting decision is permissible if, during the underwriting process, it is revealed that the applicant has had positive HIV-related test results following the testing protocol as provided in subsection C, or has been diagnosed as having AIDS or HIV infection.</li> <li>3. An adverse underwriting decision is not permissible if it is based solely on the presence of symptoms, as disclosed in an application for life or accident and sickness insurance coverage. An adverse underwriting decision is permissible, however, if the symptoms disclosed in the application for coverage are confirmed as being HIV-related through the use of medical records or HIV-related tests as provided in subsection C.</li> </ol> <p>B. No inquiry in an application for life or accident and sickness insurance coverage, or in an investigation conducted by an insurer or an insurance support organization on its behalf in connection with an application for such coverage, shall be directed toward determining the applicant's sexual orientation.</p> <ol style="list-style-type: none"> <li>1. No question that is designed to establish the sexual orientation of the applicant shall be used on an application for life or accident and sickness insurance coverage.</li> <li>2. Neither the marital status, the "living arrangements," the occupation, the gender, the medical history, the beneficiary designation, nor the zip code or other territorial classification of an applicant may be used to establish, or aid in establishing, the sexual orientation of the applicant.</li> <li>3. If information about an applicant's sexual orientation becomes known through other means, no adverse underwriting decision shall be made based solely on such information.</li> <li>4. Questions relating to medical and other factual matters intending to reveal the possible existence of a medical condition are permissible if they are not used as a proxy to establish the sexual orientation of the applicant. The applicant must be given an opportunity to provide an explanation of any answers given in the application for life or accident and sickness insurance coverage that may result in an adverse underwriting decision.</li> <li>5. Questions relating to an applicant having, or having been diagnosed as having, or having been advised to seek treatment for, a sexually transmitted disease are permissible.</li> <li>6. No adverse underwriting decision shall be made solely because medical records or a report from an insurance support organization as</li> </ol>

<b>Title 14 VAC</b>	<b>Code Language</b>
	<p>defined in §38.2-602 of the Code of Virginia shows that an applicant has demonstrated AIDS-related concerns by seeking preventative educational counseling or advice from health care professionals. This prohibition does not apply to an applicant diagnosed as having been infected with the HIV or seeking treatment for AIDS.</p> <p>C. Insurers may require applicants for life or accident and sickness insurance coverage to be tested for the presence of HIV infection, provided the procedures are consistent, accurate, and not unfairly discriminatory.</p> <p>1. If an HIV-related test is not required for all applicants, insurers may test a specific class of applicants based on type of insurance, face amount, or age and face amount of coverage being requested or late entrance under a group insurance policy or subscription contract. In all other cases, the insurer must have a medical basis for requiring individual applicants to take an HIV-related test.</p> <p>2. Whenever an applicant is requested to take an HIV-related test in connection with an application for life or accident and sickness insurance coverage, the use of such a test must be revealed to the applicant and his or her written consent must be obtained. The consent form does not need to be filed with the Commission but must provide an explanation of the meaning of the HIV-related test and must disclose:</p> <p>a. The types of individuals or organizations that will receive a copy of the test results;</p> <p>b. The types of individuals or organizations that will have access to the applicant's insurance file;</p> <p>c. The types of individuals or organizations that will keep the test information in a data bank or other file;</p> <p>d. That if the applicant requests the names of the specific individuals or organizations named in subdivisions a, b, or c in connection with his application, the information shall be provided to the applicant;</p> <p>e. The name and address of the person to be notified of the HIV test results. The applicant may choose to receive the test results directly or designate another person such as a physician; and</p> <p>f. That if the person being tested does not designate a person or physician as provided in subdivision C 2 e above of this section, personal face-to-face counseling is available through the Virginia Department of Health. To obtain information regarding counseling, a person should contact their local health department. Additional information concerning AIDS or HIV infection can be obtained by calling the Virginia Health Department at 1-800-533-4148.</p> <p>3. Insurers shall notify applicants or their designees of positive or indeterminate test results. Insurers shall:</p> <p>a. Notify all applicants or their designees of negative test results; or</p> <p>b. Permit each applicant to indicate affirmatively on the consent form whether or not negative test results are to be mailed to the applicant or his designee. If the applicant indicates the desire to receive notice of negative test results, the insurer shall comply with such request.</p> <p>4. Insurers shall not send HIV test results to the applicant if another person is named on the consent form as provided in subdivision C 2 e of</p>

<b>Title 14 VAC</b>	<b>Code Language</b>
	<p>this section. If a person other than the applicant is named on the consent form, insurers shall, no earlier than seven days after sending the test results to the person designated by the applicant, send the applicant notice of an adverse underwriting decision.</p> <p>5. Insurers shall maintain strict confidentiality regarding HIV-related test results or the diagnosis of a specific sickness or medical condition derived from such tests.</p> <p>a. Information regarding specific HIV-related test results shall not be disclosed outside the insurance company or its employees, insurance affiliates, agents or reinsurers, third party contractors, insurance regulators, public health regulators or insurance industry data banks, except to the applicant being tested or persons designated in the consent form by the applicant.</p> <p>b. Specific HIV-related test results may not be furnished to an insurance industry data bank if a review of the information would identify the individual and the specific test results.</p> <p>c. The use of an insurance industry data bank code for a general blood disorder which is not specific to the HIV infection is permissible.</p> <p>6. No adverse underwriting decision shall be made on the basis of positive HIV-related test results unless based on, as a minimum, the following test protocol: (i) two positive enzyme-linked immunosorbent assay (ELISA) tests, followed by (ii) one Western Blot. If the results of the Western Blot are indeterminate and the insurer makes a decision to delay issuing the insurance coverage, an adverse underwriting decision notice must be issued.</p> <p>7. New and more effective HIV- related tests are anticipated to be developed in the future. If, in the opinion of the Commission, the medical community and public health officials establish that future tests are superior to the existing protocol, they may be used instead of the above.</p> <p>8. An insurer may include questions on the application for life or accident and sickness insurance coverage as to whether the applicant has tested positive for the presence of HIV infection.</p> <p>a. No adverse underwriting decision shall be made concerning an applicant who has tested positive for the presence of HIV infection unless the insurer determines that the test protocol outlined in subdivision C 6 or C 7 if applicable, of this section was followed.</p> <p>b. Nothing in this section prohibits an insurer from requiring such an applicant to be re-tested if the insurer is unable to make a determination that the proper test protocol was followed.</p> <p>9. An adverse underwriting decision is permissible if the applicant refuses to take an HIV-related test requested by the insurer.</p> <p>10. If an insurer requires an applicant to be tested for the presence of HIV infection as a condition of underwriting, the cost of testing must be borne by the insurer to the same extent that the insurer bears the cost for any other tests required in the underwriting process.</p>
14VAC5-180-60	<p><b>Coverage limitations and exclusions.</b></p> <p>A. The following policy limitations and exclusions are prohibited under this section:</p>

<b>Title 14 VAC</b>	<b>Code Language</b>
	<p>1. Any life or accident and sickness insurance policy, any health services plan or health maintenance organization subscription contract or any rider used in connection with such policies or subscription contracts that excludes coverage for the treatment of HIV infection or Acquired Immunodeficiency Syndrome (AIDS) or complications or death resulting from such disease.</p> <p>2. Any life or accident and sickness insurance policy, any health services plan or health maintenance organization subscription contract or any rider used in connection with such policies or subscription contracts that places a dollar limit on face amount of benefits payable for the treatment of HIV infection or Acquired Immunodeficiency Syndrome (AIDS) or complications or death resulting from such disease (other than the overall policy maximum or face amount).</p> <p>3. A "preexisting condition" limitation related to HIV infection or Acquired Immunodeficiency Syndrome (AIDS) that is:</p> <p style="padding-left: 40px;">a. Defined to be more restrictive than the following:</p> <p style="padding-left: 80px;">(1) The existence of symptoms which would cause an ordinarily prudent person to seek diagnosis, care or treatment within a five year period preceding the effective date of the coverage of the insured person; or</p> <p style="padding-left: 80px;">(2) A condition for which medical advice or treatment, not including preventative educational counseling, was recommended by a physician or received from a physician within a five year period preceding the effective date of the coverage of the insured.</p> <p style="padding-left: 40px;">b. Based on the sole existence of a positive HIV-related test result, following the protocol as described in 14VAC5-180-50 C, without the manifestation of symptoms or actual diagnosis of AIDS. Claims may not be denied as a preexisting condition solely on the existence of a positive HIV-related test result without the manifestation of symptoms or actual diagnosis of AIDS. Nothing in this subdivision shall be considered as prohibiting an insurance company from contesting a policy on the basis of material misrepresentation during the contestable period of the policy.</p> <p>B. In only the following circumstances may insurers utilize a preexisting condition limitation for HIV infection or Acquired Immunodeficiency Syndrome (AIDS) which is more restrictive than that provided in subdivision A 3 above.</p> <p style="padding-left: 40px;">1. With regard to open enrollment contracts issued by health services plans pursuant to §38.2-4216.1 of the Code of Virginia, a preexisting condition waiting period no more restrictive than that for any other illness is permitted. However, after the preexisting condition waiting period has expired, the health services plan shall provide coverage for HIV infection or acquired immunodeficiency syndrome (AIDS) as it does for any other illness not related to AIDS.</p> <p style="padding-left: 40px;">2. With regard to group life or accident and sickness insurance policies, group health services plans or health maintenance organization subscription contracts, where the insurer does not retain the right to exclude or limit coverage on any person when evidence of individual insurability is not satisfactory, a preexisting condition waiting period for HIV infection or acquired immunodeficiency syndrome (AIDS) is</p>

<b>Title 14 VAC</b>	<b>Code Language</b>
	permitted to the same extent as such period is permitted for all other preexisting conditions. Nothing in this subsection shall prohibit an insurer from excluding or limiting coverage on any person when evidence of individual insurability is not satisfactory, if the person applies for coverage after the period they are first eligible to enroll under the group policy or subscription contract. After the preexisting condition waiting period has expired, the insurer shall provide the same coverage for HIV infection or acquired immunodeficiency syndrome (AIDS) as it does for any other death or illness not related to AIDS.