

Current HIV Testing Laws in New England

Massachusetts

- Offers confidential testing.
- Verbal informed consent from the individual being tested is required and should be documented in the medical record if conducted in a medical setting.
- Specific written informed consent is required from the individual when disclosing HIV test results.
- No requirement for pre-test counseling.
- All pregnant women, regardless of risk, should be offered HIV counseling and tested with their consent, as part of the routine battery of prenatal laboratory tests during each pregnancy or at the time of delivery if no prior test result is available.
- Minors may consent to HIV testing. Minors age 13 or older have the right to keep HIV testing information confidential.
- HIV testing for victims of a sexual assault is recommended by Sexual Assault Nurse Examiners (SANEs) as part of a comprehensive exam.
- No specific laws related to testing of newborns.

New Hampshire

- Offers confidential testing.
- Specific consent for testing is required. It can be verbal or written.
- No specific law related to counseling requirements.
- In cases where an individual is convicted of sexual assault, counseling regarding HIV shall be provided to the perpetrator and the victim.
- No laws specific to testing pregnant women or newborns, though HIV testing is recommended during the course of every pregnancy. HIV exposure in infants must be reported.

Rhode Island

- Offers confidential and anonymous testing.
- Verbal consent for medical care is sufficient. Consent or declination must be documented in medical record.
- Education, counseling, and referrals are available to all who test, regardless of test result.
- HIV screening is incorporated as part of routine prenatal testing for all pregnant women unless the patient opts out.
- Newborns with no maternal documentation to be tested at birth.

Connecticut

- Offers confidential and anonymous testing.
- General consent for medical care is sufficient. Declination must be documented in the medical record.
- Minors may consent to HIV testing.
- Post-test counseling or referral for counseling as needed.
- Victims of a sexual offense must be notified of the availability of HIV testing.
- Testing of pregnant women in the first and third trimester of care is routine, unless religious views dispute this.
- Testing of pregnant women presenting in labor or delivery with undocumented HIV status is through the opt-out process. If a woman objects, this must be documented.
- All newborns must be tested for HIV; may be omitted if mother has been tested (within first month of first examination and third trimester) or in cases of religious conflicts.

Maine

- Offers confidential and anonymous testing.
- Verbal consent for medical care is sufficient. Consent or declination must be documented in medical record.
- Post-test counseling is required in the case of positive test results.
- Testing of pregnant women is routine, unless there are religious or contentious objections and will be noted in medical record.
- Mandatory testing of all newborns, unless mother has been tested in the third trimester or in cases of religious views.
- Minors can give consent to HIV testing without parental or guardian consent unless there are religious or contentious objections and will be noted in medical record.

Vermont

- Offers confidential and anonymous testing.
- Informed consent required for insurance testing.
- Victims of sexual assault have access to HIV counseling and post-exposure prophylaxis at no charge.
- No specific laws related to counseling requirements or testing of pregnant women and newborns.

HIV Testing In New England



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Overview of HIV Testing in New England

HIV Testing is integral to HIV prevention, treatment, and care. Knowledge of one's status is important for the prevention of transmission and personal health. Studies show that those who know their HIV status modify their behavior to reduce HIV risk for self and others¹. Early knowledge of HIV status is also important for linkages to care and services that may reduce morbidity and mortality and improve quality of life.

Testing Recommendations and Requirements

The Centers for Disease Control and Prevention (CDC) recommends routine HIV screening in health care settings for all persons aged 13-64 and repeat screening at least annually for those at high risk¹. HIV testing is recommended for all pregnant women and for any newborn whose mother's HIV status is unknown. CDC recommends that screening be **voluntary** and offered on an **opt-out** basis (patient will be notified that test will be performed and consent is inferred unless the patient declines). There are particular scenarios where HIV testing is mandatory in the US such as blood and organ donors, military applicants and active duty personnel, Peace Corps volunteers, and federal and state inmates under certain circumstances. HIV testing laws vary from state to state.

Insurance Coverage for HIV Testing and Screening

Under the Affordable Care Act, most health plans must cover HIV screening for everyone aged 15 to 65 and other ages at increased risk. Medicare and Medicaid programs cover HIV testing according to clinical considerations. *(For more information on cost and reimbursement of HIV testing go to www.hret.org/hiv-cost)*

Home Tests:

Home tests are HIV antibody tests that can be purchased from pharmacies or online and offer results in as little as 20 minutes. Home tests are approved by the FDA² and provide an option for those who are not able or willing to access traditional testing venues. A positive test result should be followed up in a health care setting for confirmatory testing.

HIV Testing Methods

Prior to 2010, HIV screening tests detected only HIV antibodies. In 2010 the FDA approved the use of **4th generation (combination) HIV tests**, which detects both antibodies against HIV and the p24 antigen, which is part of the HIV virus. While the antibody test can be positive as early as three weeks after infection, the p24 test can be positive in only two weeks, shortening the window period between infection and a positive test result. 4th generation HIV tests can also discriminate between HIV-1 and HIV-2 infection. *(For more information and online training on 4th Generation testing go to www.4thGenHIVTests.edc.org)*

An HIV test result using a **rapid test kit**, which uses antibody testing only of blood or saliva, can be available in as little as 10 minutes. A negative test requires no further testing unless there is concern for a very recent exposure. A reactive or preliminary positive test should be followed with a referral to a health care setting for confirmatory testing and follow-up.

Antibody Test:

This test detects the presence of HIV antibodies in the blood or saliva. Antibody tests that use blood can detect HIV sooner after infection than tests done with oral fluid. It can take 3 to 12 weeks for a person's body to make enough antibodies for an antibody test to detect HIV infection, a delay known as the window period. Depending on the window period associated with a test, a person who tests negative and reports recent known or possible exposure to HIV should be retested at an appropriate interval based on risk and the type of test used³.

4th Generation HIV Test:

This is now the standard test done at state laboratories in Massachusetts, Connecticut, Rhode Island, Maine, and New Hampshire and used in Vermont for confirmatory testing. The CDC and the Association of Public Health Laboratories (APHL) recommends that laboratories conduct initial testing for HIV with a 4th Generation test⁴. It can take 2 to 6 weeks for a person's body to make enough antigens and antibodies for a combination test to detect HIV. Positive results indicate the need for HIV medical care including additional laboratory tests, such as HIV viral load, CD4, and antiretroviral resistance testing.

Nucleic Acid Test (NAT):

This test detects the virus in blood and not antibodies to the virus. This test is expensive and not routinely used for screening individuals unless acute HIV is suspected. It is also employed to detect acute HIV infection in the 4th generation testing algorithm when the initial p24 antigen/HIV-1/2 antibody combination test is positive, but the confirmatory HIV-1/HIV-2 antibody differentiation test is negative or indeterminate. In this scenario, the first assay is positive owing to the presence of the p24 antigen, whereas the antibodies sought in the combination and differentiation assays have yet to become detectable⁴. The NAT test will detect the presence of HIV-1 as early as 10 days after infection.

Western Blot Test:

An older confirmatory test testing for antibodies to several different parts of the HIV virus that has been replaced by the newer and more accurate 4th Generation test in the New England states.

Information about HIV testing locations is available at <https://gettested.cdc.gov>.

1. CDC, MMWR, vol.55, No. RR14:2006

2. FDA, HIV Home Test Kits. www.fda.gov/biologicsbloodvaccines/safetyavailability/hivhometestkits

3. CDC. Implementing HIV Testing in Nonclinical Settings: A Guide for HIV Testing Providers, March 2, 2016

4. CDC and APHL. Laboratory Testing for the Diagnosis of HIV Infection: Updated Recommendations. June 27, 2014