

CHAPTER 45-03-11
NOTICE, CONSENT, AND DISCLOSURE FOR TESTING OF BLOOD OR OTHER BODY FLUIDS

Section

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45-03-11-01. Definitions.

1. "Informed consent form" means a printed document on which an individual may signify that individual's informed consent for testing for the presence of an antibody to the human immunodeficiency virus or authorize the disclosure of any test results obtained.
2. "Informed consent for testing or disclosure" means written consent on an informed consent form by an individual to the administration of a test to that individual for the presence of an antibody to the immunodeficiency virus or to the disclosure to a specified person of the results of a test administered to the consenting individual.

History: Effective July 1, 1990.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 26.1-30-19

45-03-11-02. Requirement for informed consent and disclosure.

Any insurance company, health maintenance organization, fraternal benefit society, benevolent society, or nonprofit health service corporation conducting business in this state which requests its applicants for insurance coverage to provide a body fluid sample for the purpose of testing and analysis which may include testing to determine the presence of antibodies or antigens to the human immunodeficiency virus (HIV), also known as the AIDS virus, as part of its underwriting process, shall, prior to any such testing, obtain from the applicant the applicant's informed consent for testing or disclosure of the test results as provided under section 45-03-11-04.

History: Effective July 1, 1990.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 26.1-30-19

45-03-11-03. Prescribed form of informed consent.

Any insurance company, health maintenance organization, fraternal benefit society, benevolent society, or nonprofit health service corporation which subjects an applicant for insurance coverage to a test for the presence of an antibody or antigen to the human immunodeficiency virus under section 45-03-11-02 shall provide the applicant with an informed consent form and shall obtain the applicant's signature on the form. The form must contain at least the following language printed in type no smaller than ten point, and must take substantially the following form:

EXAMINER _____
ADDRESS _____

INSURER _____
ADDRESS _____

NOTICE AND CONSENT FOR BLOOD (OR OTHER BODY FLUID)
TESTING AND DISCLOSURE WHICH MAY INCLUDE AIDS VIRUS (HIV)
ANTIBODY/ANTIGEN TESTING

To determine your insurability, the Insurer named above (the Insurer) has requested that you provide a sample of a body fluid for testing and analysis. All tests will be performed by a licensed laboratory.

Tests may be performed to determine the presence of antibodies or antigens to the Human Immunodeficiency Virus (HIV), also known as the AIDS virus. Other tests which may be performed include determinations of blood cholesterol and related lipids (fats) and screening for liver or kidney disorders, diabetes, and immune disorders.

CONFIDENTIALITY

All test results will be treated confidentially. The results of tests will be reported by the laboratory to the Insurer identified on this form. When necessary for business reasons in connection with insurance you have or have applied for with the Insurer, the Insurer may disclose test results to others such as its affiliates, reinsurers, employees, or contractors to whom disclosure is reasonably necessary in the ordinary course of business to carry out the purpose for which that disclosure is authorized. If the Insurer is a member of the Medical Information Bureau (MIB, Inc.), and if the test results for HIV antibodies/antigens are other than normal, the Insurer will report to the MIB, Inc., a generic code which signifies only a nonspecific test abnormality. If your HIV test is normal, no report will be made about it to the MIB, Inc. Other test results may be reported to the MIB, Inc., in a more specific manner. The organizations described in this paragraph may maintain the test results in a file or data bank. There may be other disclosure of test results as permitted by law or authorized by you.

NOTIFICATION OF RESULTS

If your HIV test results are normal, no routine notification will be sent to you. If you are a resident of North Dakota and your HIV test is other than normal, the Insurer will disclose test results to the North Dakota Department of Health as required by law. If the HIV test results are other than normal, the North Dakota Department of Health will contact you.

SIGNIFICANCE OF POSITIVE TEST RESULTS AND AFFECT ON APPLICATION FOR INSURANCE

Positive HIV antibody/antigen test results do not mean that you have AIDS, but that you are at significantly increased risk of developing AIDS or AIDS-related conditions. Federal authorities say that persons who are HIV antibody/antigen positive should be considered infected with the AIDS virus and capable of infecting others.

Positive HIV antibody or antigen test results or other significant blood abnormalities will adversely affect your application for insurance. This means that your application may be declined, that an increased premium may be charged, or that other policy changes may be necessary.

I have read and I understand this Notice of Consent for Blood (or Other Body Fluid) Testing and Disclosure which may include HIV antibody/antigen testing. I voluntarily consent to the testing of my blood or other body fluids and the disclosure of the test results as described above.

I understand that I have the right to request and receive a copy of this authorization. A photocopy of this form will be as valid as the original.

Proposed Insured (print)

Date of Birth

Signature of Proposed Insured
or Parent/Guardian

Date

State of Residence

History: Effective July 1, 1990.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 26.1-30-19

45-03-11-04. Informed consent - Legal requirements.

The form prescribed in section 45-03-11-03 is not in lieu of any legal requirements applicable to persons drawing or testing blood for human immunodeficiency virus to obtain informed consent for testing or disclosure.

History: Effective July 1, 1990.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 26.1-30-19

45-03-11-05. Notification of test results.

If the results of testing subject to this chapter are other than normal, the insurer shall notify the North Dakota state department of health. The written notification must indicate the specific nature of the abnormal test results and must also indicate all persons to whom the test results have been disclosed. The notice must also inform the department of the specific tests and procedures used to determine the proposed insured as an other than normal test result.

History: Effective July 1, 1990.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 26.1-30-19